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*The  
Birmingham  
Law  
Society*



*Ratio  
est Anima  
Legis*



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# THE INTERPRETER:

O R  
BOOKE CONTAINING  
the Signification of Words:

*Wherein is set foorth the true meaning of all, or  
the most part of such Words and Ternies, as are mentioned in  
the Lawe VVriters, or Statutes of this victorious and re-  
nowned Kingdome, requiring any Exposition  
or Interpretation.*

A Worke not onely profitable, but necessary for such as desire  
thoroughly to be instructed in the knowledge of our  
Lawes, Statutes, or other Antiquities.

Collected by IOHN COWELL Doctor, and the Kings  
Maiesties Professour of the Ciuill Law in the  
Vniuersitie of Cambridge.

*In Legum obscuritate capio.*



AT CAMBRIDGE  
Printed by IOHN LEGATE Anno 1607







To the most reuerend Father in God,  
*his especiall good Lord, the Lord Archbishop*  
of Canterburie, Primate and Metropolitan of all En-  
gland, and one of his Maiesties most Ho-  
nourable Priny Councell.



FTER long deliberation, I hardly indu-  
ced my selfe to craue your gracious prote-  
ction toward this simple worke: valewing  
it at so lowe a price, as I thinke it hardly  
woorth the respect of any graue man, much  
lesse the fauourable aspect of so honorable  
a personage. Yet the remembrance of those  
your fatherly prouocations, whereby, at  
my comming to your Grace from the Vniuersitie, you first put me  
vpon these studies, at the last by a kind of necessitie inforced me to  
this attempt: because I could not see how well to auoide it, but by  
aduenturing the hatefull note of vnthankfulnesse. For I cannot  
without dissimulation, but confesse my selfe perswaded, that this  
poore Pamphlet may proue profitable to the young Students of  
both Lawes, to whose aduancement that way, I haue of late addi-  
cted mine indeuours: else were I more then made to offer it to the  
world: and to offer it without mention of him, that by occasioning  
of this good, more or lesse, deserueth the prime thanks, were to  
proue my selfe vnworthie of so graue advice.

And therefore howsoever I accompt this too much boldnesse  
in respect of the subiect: yet could I be exceedingly glad, it might  
please your Grace to ascribe mine intention to the integrity of my  
duty. For he that meaneth truly wel, & cannot perform much: must

needes reioyce at the good acceptance of that litle which he performeth.

All I craue for this at your Graces hands, is patience and pardon for this enterprife, with the continuance of those your many fauours, that hitherto to my great comfort I haue enioyed. And so my long obseruation of your iudicious disposition, hauing taught me, what small delight you take in affected complements and verball commendation, without more words, in all true humblenes, I beseech the Almighty long to continue your Grace in health and prosperitie, to his glorie, and the good of his Church.

*Your Graces at all Commaundment,*

**Io. COWELL.**



## To the Readers.



GENTLE Readers, I heere offer my selfe to your censures, with no other desire, then by you to be admonished of my faults. For though I doe professe the amplifying of their workes, that haue gone before me in this kinde, and haue both gathered at home, and brought from abroade some ornaments for the better embellishing of our English lawres: yet am I neither so vaine, as to denie mine imperfections, nor so passionate, as to be offended at your charitable reformation. Nay, my true ende is the aduancement of knowledge; and therefore haue I published this poore worke, not onely to impart the good thereof to those young ones that want it: but also to drawe from the learned the supply of my defects: and so by degrees, if not my selfe to finish this modell, yet at the least, by the heat of emulation to incense some skilfuller architect thereunto. Yea, I shall thinke my paines sufficiently recompensed, if they may be found but worthy to stirre up one learned man to amend mine errors.

The Ciuilians of other nations, haue by their mutuall industries raised this kinde of worke in their profession, to an unexpected excellencie. I haue seene many of them that haue bestowed very profitable and commendable paines therein: and lastly one Caluinus a Doctor of Heidelberge, like a laborious Bee, hath gathered from all the former, the best inyce of their flowers, and made up a hieue full of delectable honic. And by this example would I gladly incite the learned in our common lawes and antiquities of England, yet to lend their aduice, to the gayning of some comfortable lights & prospects toward the beautifying of this auncient palace, that hitherto hath bene accompted (howsoeuer substantiall) yet but darke and melancholy.

Whosoever will charge these my traueiles with many ouer-

sights, he shall neede no solemne paines to prooue them. For I will easily confesse them. And, vpon my view taken of this booke sithence the impression, I dare assure them that shall obserue most fau'ts therein, that I by gleaming after him, will gather as many omitted by him, as he shall shew committed by me. But I learned long sithence out of famous Tullie; that as no mans errours ought to be folowed, because he sayeth some things well: so that which a man saith well, is not to be reiected, because he hath some errours. No man, no booke is void of imperfections. And therefore reprehend who will, in Gods name: that is, with sweetnes, and without reproche. So shall he reape hartie thanks at my hands: and be true imitation of the most iudicious that euer wrote, more soundly helpe on this point of learning to perfection in a fewe moneths, then I by tossing and tumbling my bookes at home, could possibly haue done in many yeares. Experience hath taught me this in mine Institutes lately set forth: by publishing whereof I haue gained the iudicious obseruations of diuers learned gentlemen vpon them, which by keeping them priuate I could neuer haue procured. By which meanes I hope one day to commend them to you againe in a more exact puritie, and so leaue them to future times for such acceptance, as it shall please God to giue them.

I haue in some towardnes a tract (de regulis iuris) where-in my intent is, by collating the cases of both lawres, to shewe, that they both be raised of one foundation, and differ more in language and termes then in substance, and therefore were they reduced to one methode (as they easily might) to be attained (in a maner) with all one paines. But my time imparted to these studies, being but stolne from mine employments of greater necessitie, I cannot make the hast I desire, or perhaps that the discourse may deserue. Wherefore vntill my leisure may serue to performe that, I intreate you louingly to accept this.

One thing I haue done in this booke, whereof, because it may seeme straunge to some, I thinke to yeld my reason: and that is the inserting not onely of words belonging to the art of the lawre, but



of any other also, that I thought obscure, of what sort soever, as Fish, Cloth, Spices, Drugs, Furres, and such like. For in this I follow the example of our Civilians, that haue thought it their part to expound any thing they could meete with in their walke. And indeede a Lawyer professeth true Philosophy, and therefore should not be ignorant (if it were possible) of either beastes, foules, or creeping things, nor of the trees from the Cedar in Lebanon, to the Hyssop that springeth out of the vvall. And therefore, if I haue either omitted any hard word within my circuit, or set it downe not expounded; I giue you good leaue to impute the one to my negligence, the other to mine ignorance: and so commend these my paines to your best profit, and you vnto God. Nouember. 3. 1607.

IO. COVELL.



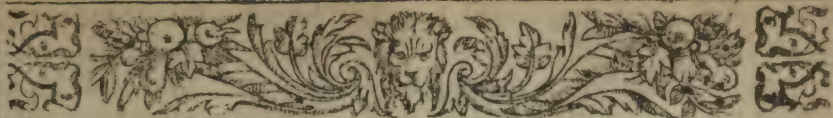


*These faults I haue noted (according to the words alphabetically)  
which of necessitie require emendation.*

**I**N the word Rawnge, for Pouralleeses, read Pourallees. In the word Reason-  
able ayde, read Claimeth of his tenents, houlding &c. For the word Remittere,  
read Remitter. In the word Returno habendo, for Expleuied, reade Repleuied.  
In the word Scor and Lor, for Aulote & Aufcote, reade Anlote & Anscote. For the  
word Statutum de laboriis, reade Laborariis. In the word Terme, for Certifie, reade  
Kecifie. For the word Thrid with hawan man, reade Thrid nith. For the word Toft,  
read Toft. In the word Tolle, for  $\zeta\epsilon\lambda\omicron\nu\iota\alpha$ , or  $\zeta\epsilon\lambda\omicron\nu\iota\alpha$ , read  $\tau\epsilon\lambda\omicron\nu\iota\alpha$ , or  $\tau\epsilon\lambda\omicron\nu\iota\alpha$ . For  $\zeta\epsilon\lambda\omicron\nu\iota\alpha$ ,  
read  $\tau\epsilon\lambda\omicron\nu\iota\alpha$ . In the word Verdour, for Verdier, read Verdeur. For the word Vi-  
countie, read Vicountiel. In the word Warlingstreat, for Toffe, read Fosse: in the  
word Widow, for Vide, read Vuide. For the word Woollerthfod, read Wolferhesod.







## The signification of Words.

A B



**ABATE** (*Intrudere*) seemeth to be taken from the French *Abatre*, i. *decutere*, *destruere*, *proferuere*. It is in the Writers of the Common law vsed both actiuely and passiuely, or rather neuterly: as to abate a castell or a fortlet, *Old. Nat. br. fo* 45. which in *Westm. 1. cap. 17.* is plainly interpreted to be as much, as to beate downe. And to abate a Writ, is by some exception to defeat or ouerthrow it, *Britton. cap. 48.* And in this Actiue voice it hath two significations: one generall, another speciall: generall, as in the former examples: and againe in *Kitchin fol. 173.* *Abater meson*, is to ruine or cast downe a house: especiall, as in the *Old. Nat. br. fol. 115.* A stranger abateth, that is, entreteth vpon a house or lād void by the death of him that last possessed it, before the heire take his possession, and so keepeth him out. Wherefore as he that putteth out him

A B

in possession, is said to disseise: so he that steppeth in betweene the former possessor and his heire, is said to abate. In the neuter signification it is vsed, *ann. 34. Edw. 1. stat. 2.* of ioynt tenants, viz. the Writ of the demandant shall abate, that is, shall be disabled, frustrated or ouerthrowne. So in *Stawmords* ples of the crowne, *fol. 148.* In this case a man may say, that the appeale abateth by covin, that is, that the accusation is defeated by deceit. See *Intrusion*.

*Abatement* (*Intrusio*) cometh also of the French (*abatement*) i. *deiectio*, *decussio*, *prostratio*, and is likewise vsed as the verbe (*abate*) both actiuely and passiuely: sometime signifying the act of the abator; as the abatement of the heire into the land before he hath agreed with the Lord. *Old. nat. br. fol. 91.* Sometime the affection or passion of the thing abated, as abatement of the writ. *Kitchin. fol. 214.* And in this signification it is as much as *exceptio dilatoria* with the Civilians, *Brit. cap. 51.* or rather an effect of

A 1

it.



it. For the exception alledged, and made good, worketh the abatement. And this exception may be taken either to the insufficiencie of the matter, or to the incertaintie of the allegation by the misnaming of the plaintiffe, defendant, or place, to the variance betweene the Writ and the specialtie, or record, to the incertaintie of the VVrit, count, or declaration, or to the death of the plaintiffe or defendant: new tearmes of the law, *verbo*, Abatement of Writ. And he that will reade more of this, may looke vpon the new booke of Entries, *verbo*, Briefe.

*Abatour* (*Intrusor*) is he that abateth, that is, thrusteth into a house or land, void by the death of the former possessor, and not yet entred or taken vp by his heire. *Old. nat. br. fol. 115. Perkins fol. 76.* If there be a disseisor, abator, or intrudor vpon any land by the deceit of the woman, &c.

*Abbot* (*Abbas*) in French *Abbè*, is by skilfull Linguists said to come from the Syriacke word (*Abba*) i. *pater*, and in our common law is vsed for him that in the covent or fellowship of Canons hath the rule and preheminence. He is by *Iustinian. novel. constitut. 115. §. ἁρχιμανδριτῶν*. tearmed *Archimandrita*, of others *Canobiarcha*, vel *Archimanachus*,

*Hoto. in verbis feuda.* Of these some here in England were mitted, some not: *Stowes annals, pa. 442.* And those that were mitted, were exempted from the iurisdiction of the diocesan, hauing in themselues episcopal authoritie within their precincts, and being also Lords of the Parliament. Of this kind thus saith *Corasius; Aliqui Abbates habent iurisdictionem episcopalem, ad quos cum Ecclesia pleno iure pertineat, in eorum Monasteriis Episcopus nihil exercet, cap. Ea que. Vbi Panor. extra de statu Monacho. Hac dictus author in Paraphrasi de sacerdotio materia, parte pri. cap. 9.* And these were called Abbots soueraigne, anno 9. R. 2. cap 4. and Abbots generals, as *M. Fearn* noteth in his glory of generositie. pag. 126. The other sort were subiect to the diocesan in all spirituall gouernement, cap. *Monasteria, 18. quest. 2. cap. Abbas. & cap. visitandi, cum quatuor sequentibus ibidem. ca. Omnes. 16. quest. 7. & cap. Cum venerabilis. extra. de religiosis domibus.* And as Abbots, so were there Lord Priors also, who both had exempt iurisdiction, & were Lords of the Parliament, as appeareth by *S. Edward Cooke de iure Ecclesiastico, fol. 28. a.*

*Abejance*, seemeth to be deriued from the French (*Abayer. i. allatrare,*) to barke at, as dogs do against a stranger, or spaniels

at a Fesant put to the pearke. So children are said (*bayer à la mainne*) when seeing the dog, they struggle and make meanes towards it. And they likewise (*bayer a l'argent*) *qui spe atque animo incumbunt pecunie*. This word in *Litleton, cap. Discontinuance*, is thus vsed. The right of Fee-simple lyeth in abeyance: that is, (as himselfe interpreteth) all onely in the remembrance, intendmēt, and consideration of the law. Also in the same place: the Francke tenement of the glebe of the parsonage, is in no man during the time that the parsonage is void, but is in abeyance. And againe: It is a principle in lawe, that of euery land there is Fee-simple in some man, or the Fee-simple is in abeyance. Considering these places, and comparing them with the signification of the French word, I am driuen to thinke, that our auncient Lawyers would signifie hereby a kind of hope, or longing expectance: because that those things that be in abeyance, though for the present they be in no man, yet they are in hope and expectation belonging to him that is next to enioy them. For I find also in the French, that *vn bayard*, is *avidus spectator*, a greedy beholder. I cannot in mine owne opinion better compare this, then to that which the Civilians call *heredi-*

*ratem iacientem*. For as *Bracton* saith (*lib. 1. cap. 12. nu. 10*) *Hereditas iacens nullius est in bonis ante aditionem. Sed fallit in hoc quia sustinet vicem persone defuncti, vel quia speratur futura hereditas eius qui adibit*. So that (as the Civilians say) goods and lands do *iacere*, whilest they want a possessor, and yet not simply, because they had lately one, and may shortly haue another: so the common Lawyers do say, that things in like estate are in abeyance. Reade farther of this in the new tearmes of lawe, and in *Plowdens reports, casu VValsingham, fol. 554. a.*

*Abet* (*Abettare*) may without absurditie be said to proceed frō the French (*bouter*) i. *ponere, apponere, impellere, propellere*. It signifieth in our common law as much as to encourage or set on. The substantiue (*abetment, abettum*) is vsed for an encouraging or setting on, *Stawns. pl. cor. fol. 105*. And also (*abettour*) for him that encourageth or setteth on, *Old nat. br. fol. 21*. But both verbe and nounce is alway vsed in the euill part.

*Abisberfing* (according to *Rastall* in his *Abridgement, titulo Exposition of law words*) is to be quit of amerçiements before whom soeuer of transgression. The author of the new tearmes calleth it otherwise (*Misberfing*)



and saith it is to be quit of amer-  
ciaments before whom fouer  
of transgression proued. I am of  
opinion that the word original-  
ly signifieth a forfeiture, or an a-  
merciament, and that it is much  
transformed in the writing by  
misprision and ignorance of  
Clerkes: thinking it very pro-  
bable, that it proceedeth from  
the Germane verbe (*Beschetzen*)  
which is as much as *fisco addicere*  
*vel confiscare*. It seemeth by the  
former authors to be teamed a  
freedome or libertie, because he  
that hath this word in any char-  
ter or grant, hath not onely the  
forfeitures and americiaments of  
all others within his see for  
transgressions, but also is himself  
free from all such controule of  
any within that compasse.

*Abiuration* (*Abiuratio*) signifi-  
eth in our common law a sworne  
banishment, or an oath taken to  
forsake the realme for euer. For  
as *Stawford pl. cord. li. 2. cap. 40.*  
saith out of *Polydore Virgils* ele-  
uenth booke of *Chronicles*, the  
denotion toward the Church  
first in *S. Edward* a Saxon king,  
and so consequently in al the rest  
vntil *anno 22. H. 8.* was so earnest  
that if a man hauing committed  
felonie, could recouer a church  
or church yard before he were  
apprehended, he might not be  
thence drawne to the visuall trial  
of lawe, but confessing his fault

to the Iustices at their commings  
or to the Coroner, before them,  
or him giue his oath finally to  
forsake the realme. Of this you  
may reade a touch, *anno 7. Hen.*  
*7. cap. 7.* But the forme and effect  
of this you may haue in the old  
abridgement of Statutes, *titulo.*  
*Abiuration. nu. 3.* taken out of the  
auncient Tractate intituled, *De*  
*officiis coronatorum*: as also in  
*Cromptons* Tractate of the office  
of the Coroner, *fol. 206. b.* and in  
the new booke of entries, *verbo,*  
*Abiuration*: and in *Andrew Ho-*  
*rus* myrror of Iustices, *lib. 1. cap.*  
*del office del coroner*. This part of  
our lawe was in some sort pra-  
ctised by the Saxons, as appea-  
reth by the lawes of king *Edward*  
set out by *M. Lamberd. nu. 10.* but  
more directly by the Normans,  
as is euident by the grand custo-  
marie, *cap. 24.* where you haue  
these words in effect: He that  
flyeth to a Church, or holy place,  
may stay there for eight dayes.  
And at the ninth day he must be  
demaunded, whether he will  
yeeld himselfe to secular iustice,  
or hold him to the Church. For  
if he will, he may yeeld himselfe  
to the lay Court: if he will cleaue  
to the Church, he shall forswear  
the countrie before the Knights  
and other people of credit, which  
may witnesse the act, if need re-  
quire. The forme of the oath is  
likewise there set downe with  
the



the rest of the proceeding in this matter very agreeable with ours. This mercie as well of the Saxōs as Normans deriued vnto vs, something resembleth that of the Romaine Emperors toward such as fled to the Church, *lib. 1. Co. titulo 12.* or to the images of themselves, *eadem titulo 25.* And also that of *Moses* tou hing the cities of refuge, *Exod. cap. 21 vers. 13. Num. cap. 35. vers. 6. 11 12. Deut. 19. vers. 2. Jos. 20. vers. 2.* But as it was in our auncestors dayes larger by great oddes in this realme, so had it lesse reason, as it may appeare to all that will compare them. Of all circumstances belonging to this abiuration, you may farther reade the new tearmes of lawe: *Starnford ubi supra*, and such others. But this grew at the last vpon good reason to be but a perpetual confining of the offender to some Sanctuarie, wherein, vpon abiuration of his liberty and free habitations, he would chuse to spend his life, as appeareth, *anno 22. Hen. 8. cap. 14.* And this benefite also by other statutes is at the last wholly taken away. So that abiuration at this day hath place but in few cases: and if it be inflicted vpon any, it is not a confining to a Sanctuarie (for there be no Sanctuaries remaining amongst vs) but a sworne banishment out of the Kings do-

minions. This the Civilians call *exilium*, or *deportationem*, *lib. 28. Digest. titulo 22. de interdictis, relegatis & deportatis.*

*Abridge* (*Abbreuiare*) cometh of the French (*abroger*) and in one generall language signifie th as much as to make shorter in words, holding still the whole substance. But in the common lawe it seemeth (at the least for the most part) to be more particularly vsed for making a declaration or count shorter by subtracting or seuering some of the substance therein comprised. As for example: a man is said to abridge his plaint in an Assise, or a woman her demand in an action of dower, that hath put into the plee or demand any land not in the tenure of the tenant or defendant: and finding that by his answer, razeth those parcels out of the plee, praying answer to the rest. So that here (*abridger*) is not (*contrahere*) but rather *subtrahere*. Termes of the lawe. *Broke. titulo, Abridgement.* and *anno 21. Hen. 8. cap. 3.* Of this the Civilians haue no vse, by reason of certaine cautelous clauses, they ordinarily haue at the end of euery position or article of their libell or declaration to this effect: *Et ponit coniunctim, diuisim, & de quolibet, & de tali & tanta quantitate vel summa qualis & quanta per confessionem partis ad-*

*verse, vel per probationes legitimas in fine litis apparebit.* And againe, in the conclusion of all: *Non astringens se ad singula probanda, sed petens, ut quatenus probauerit in premissis, aut eorum aliquo, eatenus obtineat.* By vertue of which clauses the plaintiffe faileth not in the end by any ouer or vnder demand, neither is driuen to begin his action againe, but obtaineth for so much as he proueth to be due, though not to the heithe of his demaund.

*Abridgement (abbreviamentum)* see *Abridge.*

## A C

**A***ccedas ad Curiam*, is a Writ that lieth for him, who hath receyued false iudgement in a court Baron, being directed to the Sheriffe, as appeareth by *Dyer, fol. 169. nu. 20.* Like as the writ *De falso iudicio* lyeth for him that hath receiued false iudgement in the county Court: the forme whereof you may see in *Fitzh. nat. br. fol. 18. d.* and in the Register *fol. 9. b.* where it is said, that this writ lyeth for iustice delayed, as well as faully given. It is a species of the writ called (*Recordare*) Register original, *fol. 5. b.* and *Fitzh. ubi supra.*

*Accedas ad Vicecomitem* is a writ directed to the Coroner commanding him to deliuer a writ to the Sheriffe, that hauing a (*poxe*) deliuered vnto him, doth

suppresse it, *Regist. origin. fol. 83.*

*Accessory (Accessorius vel Accessorium)* is vsed in our common lawe, otherwise then among the Ciuilians. For whereas with them it is generally takē for any thing depending vpon another: here though it be so likewise, yet most commonly and notoriously it signifieth a man that is guiltie of a feilonious offence, not principally, but by participation: as by commandement, aduice, or concealement. And a man may be accessorie to the offence of another after two sorts: by the common lawe, or by statute: and by the common lawe two waies also: that is, before or after the fact. Before the fact, as when one commaundeth or aduiseeth another to commit a felony, and is not present at the execution thereof. For his presence maketh him also a principall: wherefore there cannot be an accessorie before the fact in manslaughter, because manslaughter is sodaine and not prepensed, *Cooke lib. 4. fol. 44. a.* Accessorie after the fact, is when one receiueth him, whom he knoweth to haue committed felonie. Accessorie by statute is he that abetteth, counselleth, or hideth any man committing or hauing committed an offence made felony by statute. For though the statute make no mention of abettours,



tours, &c. yet they are by interpretation included. Of all these consult with *Stawnf. pl. cor. lib. 1. cap. 45. 46. 47. 48.* There is also an accessorie of an accessorie, as he that wittingly receiueth an accessorie to felonie. *lib. Assis. 26. pl. 51. Coron. Fitzb. 196. Stawnf. pl. cor. li. 1. cap. 48.* And the lawe of England is, that so long as the principall is not attainted, the accessorie may not be dealt with, *Stawnf. ubi supra.* The reason whereof you may see, *Cooke lib. 4. fol. 43. b.* And this is also true by the ciuill lawe. *Claudius de Bartandier. in pract. crim. regula 101.* at the least vntill the principall be certainly knowne. Of this subiect reade *M. Cromptons Iustice, fol. 37. b. 38. 39.*

*Acceptance*, is a receiuing of a rent, whereby the receiuer bindeth himselfe for euer to allow a former fact done by another, whether it be in it selfe good or not. new tearmes of law.

*Accompte* (*computus*) is in the common lawe taken for a writte or action brought against a man, that by meanes of office or businesse vndertaken, is to render an account vnto another: as a bailife toward his Master, a guardian in focage toward his ward, & such others, as you shall find particularly named by *Fitzb.* in his *nat. br. fo. 116.* where you may also

haue the forme and further vse of this writte. See *ex parte talis.*

*Accroche.* See *enchrochement.* This word accroche is vsed. *ann. 25. Ed. 3. Stat. 3. ca. 8.*

*Achat.* commeth of the french (*acher. i. emptio, nundinatio*) and is vsed for a contract or bargain. *Broke. tit. contract.*

*Acquittal*, signifieth in our common law most ordinarily a deliuerance & setting free from the suspicion or guiltines of an offence: and is twofold: acquittal in law, or acquittal in fact. *Acquittal* in law is, when two be appealed or indicted of felony, one as principall, the other as accessorie, the principall being discharged, the accessorie by consequent is also freed. And in this case as the accessorie is acquitted by law, so is the principall in fact. *Stawnf. pl. cor. fo. 168.*

*Acquittance* (*Acquiescentia*) cometh from the french (*quitter* or *quitter. i. acceptio ferre, or quittance. i. acceptatio, apocha.*) and signifieth a release or discharge from a debt formerly due. But the verbe (*acquite*), the participle (*acquitted*) & the newne (*acquital*) signify also a discharge or cleering from an offence objected, as: *acquited by proclamation.* *Smith de rep. Anglo. pa. 76. Stawnf. pl. cor. fo. 168. Broke. tit. Acquittal.* See the new tearmes of lawe. *verbo, acquittal & acquittance.*

*Acquie.*



*Acquietandis plegiis*, is a Writing for a suretie against the creditour that refuseth to acquite him, after the debt is paid by the debtour, *Register ori. fol. 158.* where it appeareth that this is a Iusticies.

*Acre* (*acre*) is a certaine quantitie of land containing in length 40. perches, and foure in breadth, or to that quantitie, be the length more or lesse. And if a man erect any new cotage, he must lay 4. acres of land to it after this measure, *anno 31. Eliz. 1. cap. 7.* and with this measure agreeth *M. Crompton* in his iurisdiction of Courts, *fol. 222.* though he say also, that according to the diuers customes of diuers countries the perche differeth, being in some places, and most ordinarily, but 16. foot *d. mid.* But in the Countie of *Stafford* 24. foote, as was adiudged in the case betweene *Sir Ed. Aston*, and *S. Iohn B.* in the Exchequer. In the Statute made of sowing of Flaxe, *ann. 24. H. 8. cap. 4.* eight score perches make an acre, which is 40. multiplied by 4. See also the ordinance of measuring land, made *anno 24. Ed. 1. Stat. 1.* which agreeth with this accompt. The word (*acre*) seemeth to come from the Germane word (*acker*) which is all one with the Latine (*ager.*)

*Action* (*actio*) is defined by

*Bracton lib. 3. cap. 1.* as it is by *Iustinian. li. 4. Instit. titulo. de actionibus, viz. Actio nihil aliud est quam ius persequendi in iudicio quod alicui debetur.* Action is principally diuided by *Iustinian. in personalem & realem*: by *Bracton*, into personall, reall, and mixt: action personall is that, which belongeth to a man against another by reason of any contract, offence, or cause of like force to a contract or offence made or done by him or some other, for whose fact he is by law to answer, *Bract. lib. 3. cap. 3. nu. 2.* Action reall is defined to be that which is giuen to any man against another, that vpon any cause possesseth or occupieth the thing required or siewed for in his owne name, and none other mans: and in this onely respect, that he possesseth or occupieth the thing, and none other. *Bract. ibid. nu. 3.* and his reason is this: *quia habet rem vel possidet, quam restituere potest vel dominum nominare.* This definition & reason he farther exēplifieth in the words there following, which he that wil may reade at large. Action mixt is that, which lyeth as well against or for the thing which we seeke, as against the person that hath it: and is called mixt, because it hath a mixt respect both to the thing & the person, *Bract. lib. 3. cap. 3. nu. 5.* For  
exam.

example, the diuision of an inheritance betweene ccheyres or copartners, called in the ciuill lawe (*actio familie exciscunde*;) secondly, the diuision of any particular thing being common to more, called likewise (*actio de communi diuidendo*;) this kind of action (saith *Bracton*) doth seeme to be mixt, because it lyeth as well against the thing, as the person: and indeed so do other excellent Civilians, as *Cuiacius* and *Wesembecius* in their Paratitles. *τ. finium regund.* And though *Iustinian* in his first diuision omitteth the third member: yet afterward in the same title, §. 20. he saith as these men do, *viz.* that there be certaine actions (naming these and other of like nature) that seeme to haue a mixture, &c. Of this you may also reade *Britton* at large in his chapter 71. And this diuision of action springeth from the object or matter, wherabout it consisteth, *Wesemb. parat. τ. de actio. & obligat.* The author of the new tearmes of law defineth a mixt action to be a suite giuen by the lawe to recouer the thing demaunded, and also the damages for wrong done: as in Assise of nouel disseysin: the which writ, if the disseisour make a feoffment to another, the disseisour shall haue remedie against the disseisour and the feeffer, or other land tenant, to recouer not

only the land, but the damages also. See the rest. These words occasion me to shew, that *actio* is by the ciuill lawe called *mixta* in two respects: *Nam quoddam mixta sunt quod in se, & actionis in rem, & actionis personalis naturam habeant, & in iis, & actor & reus vterque sit, l. actionis verbo. §. fin. τ. de obligat. & actio. Tales sunt actio familie excisc. communi diuidun. & finium regun. quoddam verò mixta sunt, quod rem simul & penam persequantur, ut in actione vi bonorum rapt. legis Aquiliae, & ea que datur contra eos qui legata vel fidei commissa sacrosanctis Ecclesiis relicta solvere distulerunt.* And of this later sort is the example that the said author bringeth of a mixt action.

*Action*, is also by the Civilians divided, of the efficient cause, in *civilem & pratoriam*. Whereof the one riseth out of the common civil lawe, the other from some edict of the Pretour. Who being cheife Iusticer, had authoritie for his yeare, to supply the defects of the general law by his especial edicts. And a diuision not vnlike this may be made in the common law of England, one growing from the auncient customary law, the other from some statute. *Broke. tit. Action sur le statut.*

*Action* of the finall cause, is divided into *civil, penal, & mixt.*



*Cooke vol. 6 fo. 61. a.* Action civile is that, which tendeth onely to the recouerie of that which by reason of any contract or other like cause, is due vnto vs: as if a man by action seeke to recouer a summe of money formerly lent, &c. Action penall is, that aimeth at some penaltie or punishment in the partie sued, be it corporall or pecuniarie. As in the action *legis Aquilie* in the civile lawe: whereby in our common lawe the next friends of a man feloniously slaine or wounded, shall persue the law against the murderer, or him that wounded him, to condigne punishment. *Bract. li. 3. ca. 4.* Action mixt is that, which seeketh both the thing whereof we are deprived, and a penaltie also for the vniust deteyning of the same: as in an action of tithe vpon the statute. *anno. 2. & 3. Ed. 6. ca. 13.*

Action is also, according to the forme of petion divided into such as are conceiued to recouer either the simple value of the thing chalenged, or the double, the triple, or quadruple. *Bract. li. 3. ca. 3. nu. 6.* So doeth *Decies tantum* lie against embracers. *Fitzh. nat. br. fo. 171.* and against iurours that take mony for their verdict of one part, or the other, or both. And to be short, any other action vpon a statute that punisheth any offence by restitu-

tion, or fine proportionable to the transgression.

Action is preiudiciall (otherwise called preparatorie) or els principall: preiudiciall is that which groweth from some question or doubt in the principall: as if a man sue his younger brother for land descended from his father, and it be objected vnto him that he is a bastard. *Bract. li. 3. ca. 4. nu. 9.* For this point of bastardie must be tried before the cause can farther proceede, & therefore is termed *preiudicialis, quia prius iudicanda.*

Action is either auncestrell, or personall. *Stawf. pl. cor. 59.* Auncestrel seemeth to be that, which we haue by some right descending from our auncester vpon vs: and that personall, which hath the beginning in and from our selues.

Action vpon the case (*actio super casu*) is a generall action giuen for redresse of wrongs done without force against any man, and by lawe not especially provided for. For where you haue any occasiō of suite, that neither hath a fite name, nor certaine forme alreadye prescribed: there the clerkes of the chauncerie in auncient time conceiued a fite forme of action for the fact in questiō: which the Civilians call *actionem in factum*, & our common lawyers action vpon the case.

case. *In factum actiones dicuntur ideo, quia quod nomine non possunt exprimere negotium, id rei gesta enarratione declarant extra formulā ac solennitatem vllā: Cuiacius & Gothofredus ad Rubricam de prescriptis verbis.* And whereas in the civile lawe there are two sorts (*actionis in factum*) one tearmed *actio in factum ex prescriptis verbis*, the other *actio in factum pratoria*. *Wesemb. paras. de prescrip. verb.* the former growing vpon words passed in contract, the other more genarally vpon any fact touching either contract or offence formerly not provided against, this action vpon the case seemeth in vse to be more like to the pretours action *in factum*, then to the other: because in the perusall of the new booke of entries, and *Brookes* his abridgement heerevpon, I perceiue that an action vpon the case lieth as well against offenses, as breach of contract. Of this see more in the word *Trespas*.

*Action* vpon the statute (*actio super statuto*) is an action brought against a man vpon breach of a statute: to be resembled in mine opinion to any action giuen in the lawe imperiall, either vpon *edictum pratoris*, *plebiscitum*, or *senatusconsultum*. For as the Pretour, so the common people in *comitijs tributis*, & the Senatours or nobility in *curia vel senatu*, had

power to make lawes, wherevpon the Pretour or other Iudges permitted action. And euen so our high court of Parliament maketh Statutes against such offenses, as are either newly grown, or more and more increased: and our Iudges intertaine their ples, that commence actions against the breakers of them.

Action is perpetuall or temporall (*perpetua vel temporalis*) and that is called perpetuall, the force whereof is by no time determined. Of which sort were all ciuill actions among the auncient Romaines, *viz.* such as grew from lawes, decrees of the Senate, or constitutions of the Emperors: whereas actions granted by the Pretor, died within the yeare, *de perpet. & tempor. actio. in Institur.* So we haue in England perpetuall and temporarie actions: and I thinke all may be called perpetuall, that are not expressly limited. As diuers Statutes giue actions, so they be pursued within the time by them prescribed, namely, the Statute *anno 1. Ed. 6. cap. 1.* giueth action for 3. yeares after the offences therein shall be committed, and no longer: and the Statute *anno 7. H. 8. cap. 3.* doth the like for foure yeares, and that *anno 31. Eliz. cap. 5.* for one yeare & no more. But as by the ciuill lawe no actions were at the last so perpetual.



tual, but that by time they might be prescribed against as *actiones in rem, decem aut viginti terminantur annis, personales vero triginta. c. 1. de perpet. & temp. actio. in Institutio & l. 3. Co. de prescript. 30. annorum*: so in our common law, though actions may be called perpetual in comparison of those that be expressly limited by statute: yet is there a means to prescribe against reall actions within five yeares, by a fine leuied, or a recouerie acknowledged, as you may see farther in the word, Fine, and Recouerie. And for this also looke Limitation of assise.

Action is farther diuided, in *actionem bona fidei & stricti iuris*. Which diuision hath good vse in our common lawe likewise, though the tearmes I find not in any of their writers. But of this, and such like diuisions, because they haue as yet no apparent acceptance amongst our Lawyers, but onely a hidden vse, I referre the reader to the Ciuilians, and namely to *Wesemb.* in his Paratitles. *τ. De obligatio. & actio*.

*Addition (additio)* is both the English and French word made of the Latine, and signifieth in our common law a title giuen to a man ouer and aboue his Christian and surname, shewing his estate, degree, occupation, trade, age, place of dwelling, &c. For the vse wherof in originall writs

of actions personale, appeales, and indictments, it is provided by Statute anno 1. H. 5. cap. 5. vpo the penaltie therein expressed. Tearmes of the lawe. *Broke* farther addeth, that it is likewise requisite in townes, and gates of townes; parishes in great townes and cities, where there may be any doubt, by reason of more townes, gates, or parishes of the same name. *in uide Addition*. See also *M. Cromptons* Iustice of peace, fol. 95. 96.

*Adeling* was a word of honor among the *Angles*, properly appertaining to the Kings children, whereupon king *Edward* being himselfe without issue, and intending to make *Edgare* (to whome he was great Vnkle by the mothers side) his heire to this kingdome, called him *Adeling*. *Roger Hovedne, parte poster. suorum Annal. fol. 347. a.*

*Adiournment (adiurnamentum)* is almost all one with the French (*adiournement. i. denunciatio vel diei dictio*) and signifieth in our commo law an assignement of a day, or a putting off vntill another day. *Adiournment in eyre, (anno 25. Ed. 3. Statute of pourveyers, cap. 18.)* is an appointment of a day, when the Iustices in *eyre* meane to sit againe. *Adiourn. anno 2. Edw. 3. cap. 11.* hath the like signification. And this whole title in *Broke* his abridgement

ment proueth the same. The bastard Latine word (*aduornamentum*) is vsed also among the Burgundians, as *M. Skene* noteth in his booke *De verbo signi. verbo, Adornatus*, out of *Chiffeneus de consuet. burg.*

*Adinquirendum*, is a writ iudiciall, commanding inquirie to be made of any thing touching a cause depending in the Kings court, for the better execution of iustice, as of bastardie, of bondmen, and such like: whereof see great diuersitie in the Table of the Register iudiciall, *verbo, Ad inquirendum.*

*Admeasurement* (*admensuratio*) is a writ, which lyeth for the bringing of those to a mediocritie, that vsurpe more then their part. And it lyeth in two cases: one is tearmed admeasurement of dower (*admensuratio dotis*) where the widow of the deceased, holdeth from the heire or his guardian more in the name of her dower, then of right belongeth vnto her. *Register orig. fol. 171. a. Fitzh. nat. br. fol. 148.* The other is admeasurement of pasture (*admensuratio pastura*) which lieth betweene those, that haue common of pasture appendant to their free-hold, or common by vicenage, in case any one of them, or more, doe surcharge the common with more cattell then they ought,

*Register. orig. fol. 156. b. Fitzh. nat. br. fol. 125.*

*Administer* (*administrator*) in our common law is properly taken for him, that hath the goods of a man dying intestate, committed to his charge by the ordinary, & is accountable for the same, whensoever it shall please the ordinarie to call him thereunto. I finde not this word soe vsed in all the civile or canon lawe, but more generally for those, that haue the gouernment of any thing, as the *Decrees. can. 23. quest. 5. c. 26. Administratores plane secularium dignitatum. & c. and extrava. com. ca. 11. Gracius autem, & alia loca Cisterciensium ordinis, & aliorum Regularium, in quibus Gubernatores, seu custodes vel administratores ponuntur, & c.* Howsoever the signification of this word grew to be restrained amongst vs, it greatly booteth not. But there was a statute made *anno. 31. Ed. 3. ca. 11.* whereby power was giuen to the ordinarie to appointe these administrators, and to authorize them as fully as executors, to gather vp, and to dispose the goods of the deceased: alway provided, that they should be accountable for the same, as executors. And before that, *viz. Westm. 2. anno 13. Ed. 1. ca. 19.* it was ordeined, that the goods of those that died intestate, should be committed to



the ordinarie his disposition, and that the ordinarie should be bound to answer his debts, so far forth as the goods would extēd, as executors. And I perswade my selfe that the committing of this burden vnto Bishops, & to those that deriue ecclesiasticall authoritie from them, grew first from the constitution of *Leo* the Emperour. *Co. de Episco. & cleri. Inuolli licere.* 28. Where it is saide, that if a man dying bequeath any thing to the redeeming of captives, &c. and appoint one to execute his will in that point, the partie soe appointed shall see it performed: and if he appointe none to doe it, then the Bishop of the citie shall haue power to demaund the legacie, and without all delay performe the will of the deceased.

*Admirall (Admiratus)* cometh of the frenche (*amerall*) and signifieth, both in France and with vs, an high officer or magistrate that hath the gouernement of the Kings navie, and the hearing and determining of all causes, as well civile as criminall belonging to the sea. *Cromptons diuers iurisl.* fo. 88. and the statutes anno 13. R. 2. ca. 5. & anno. 15. eiusdem. ca. 2. & an. 2. H. 4. ca. 11. & anno. 2. H. 5. ca. 6. & an. 28. H. 8. ca. 15. with such like. This officer is in all kingdomes of Europe that border vpon the sea: and his autho-

ritie in the kingdome of Naples is called, *magna Curia Admiraria que habet iurisdictionem in eos qui vivunt ex arte maris.* *Vincent de Franch. de fcois.* 142. nu. 1. This Magistrate among the Romanes was called *prefectus classis*, as appeareth by *Tully in Verrem.* 7. but his authoritie was not continuall, as the Admirals is in these daies, but onely in time of warre. Neither doe I finde any such officer belonging to the Emperours in our Code. And *M. Guyn* in the preface to his reading, is of opinion that this office in England was not created vntill the daies of *Edward* the third: His reason is probable. *Britton* that wrote in *Edm.* the firsts time, and in the beginning of his booke taking vpon him to name all the courts of Iustice, maketh no mention of this courte or magistrate. And againe *Richard* the second finding the *Admirall* to extend his iurisdiction over farre, ordeined by statute made the 10. yeare of his reigne, that the limits of the admirals iurisdiction should be restrained to the power he had in his grandfather *Edward* the thirds daies, whereby the saide *Master Guyn* coniectureth that he did nought els but reduce him to his originall. But contrarily to this it appeareth by auncient records, the copies whereof I have scene, that not onely in the daies of

*Ed.* the first, but also of King *Iohn*, all causes of Merchants and mariuers, and things happening within the fludde marke, were ever tried before the Lord admirall.

*Ad iura Regis*, is a writ for the Kings Clerke against him that seeketh to ciect him to the prejudice of the Kings title in the right of his crowne. Of this you may see diuers formes vpon diuers cases. *Register. orig. fo. 61. a.*

*Admittendo clerico*, is a writte graunted to him that hath recouered his right of presentation against the Bishop in the common bank: the forme whereof read in *Fitzh. nat. br. fo. 38. & the Register. orig. fo. 33. a.*

*Admittendo in socium*, is a writ for the association of certaine persons to Iustices of assises formerly appointed, *Register. orig. fol. 206. a.*

*Ad quod damnum*, is a writ that lyeth to the escheater to inquire what hurt it will be to the King, or other person, to graunt a Faire or market, or a mortmaine for any lands intended to be giuen in fee simple to any house of religion, or other body politicke. For in that case, the land so giuē is said to fall into a dead hād, that is, such an estate and condition, that the chiefe Lords do leese all hope of heriots, seruice of court, and escheates vpon any traite-

rous or felonious offence committed by the tenant. For a bodie politicke dieth not, neither can performe personall seruice, or commit treason or felonie, as a singular person may. And therefore it is reasonable, that before any such grant be made, it should be knowne, what prejudice it is like to worke to the graunter. Of this reade more in *Fitzh. nat. breu. fol. 221.* and look *Mortmaine.*

*Ad terminum qui prateriit*, is a writ of entrie, that lyeth in case where a man hauing leased lands or tenements for terme of life or yeers, and after the terme expired, is held from them by the tenant, or other stranger that occupieth the same, and deforceth the leassour. Which writ belongeth to the leassour and his heire also, *Fitzh. nat. br. fol. 201.*

*Aduent (aduentus)* is a certaine space of time comprising a moneth or thereabout, next before the feast of Christs natiuitie. Wherein it seemeth that our ancestors reposed a kind of reuerence for the neerenesse of that solempne feast: so that all contentions in lawe were then remitted for a season. Whereupon there was a statute ordained *Westm. L. cap. 48. anno 3. Ed 1.* that notwithstanding the said vsuall solemnitie and time of rest, it might be lawfull in respect of iustice



iustice and charitie, which ought at all times to be regarded) to take assises of *novell disseisin*, *mort d'auncester*, and *darrein presentment*, in the time of Advent, Septuagesima, and Lent. This is also one of the times, from the beginning whereof vnto the end of the Octaves of the Epiphany, the solemnizing of marriage is forbidden, by reason of a certain spiritual ioy that the church, & so consequently every member thereof, for that time, doth or ought to conceiue in the remembrance of her spouse Christ Iesus, and so abandon all affections of the flesh. See Rogation weeke, and Septuagesima.

*Advocatione decimarum*, is a writ that lyeth for the claime of the fourth part or vppward, of the tythes that belong to any Church, *Register orig. fol. 29. b.*

*Advor*, aliàs *avowre* (*advocare*) commeth of the French (*advoyer*, aliàs *avoyer*, and signifieth as much as to iustifie or maintaine an act formerly done. For example, one taketh a distresse for rent or other thing, and he that is distressed, sueth a Replevin. Now he that tooke the distresse, or to whose vse the distresse was taken by another, iustifying or maintaining the act, is said to avowe. Tearmes of the lawe. Hereof commeth *advowant*, *Old. nat. br. fol. 43.* and *advowrie*, *eodem folio.*

*Bracton* vseth the Latine word in the same signification, as (*advocatio disseisine*) *l. 2. cap. 26.* And I find in *Cassauans de consuet. Burg. pa. 1210.* (*advocare*) in the same signification, and pag. 1213. the Substantiue (*desavouementum*) for a disavowing or refusall to avowe.

*Advorzen* (*advocatio*) signifieth in our common law a right to present to a benefice, as much as (*ius patronatus*) in the canon lawe. The reason why it is so termed, proceedeth from this, because they that originally obtained the right of presenting to any Church, were maintainers and vpholders, or great benefactors to that Church, either by building or increasing it: and are thereupon termed sometime *patroni*, sometime *Advocati*, *cap. 4. & cap. 23. de iure patronatus in Decretal.* And *advorzen* being a bastardly French word is vied for the right of presenting, as appeareth by the Statute of *Westm.* the second anno 13. *Ed. 1. ca. 5.*

*Advowzen* is of two sorts: *advowzen in grosse*, that is, sole or principall, not adhering or belonging to any maner as parcell of the right thereof: *advowzen dependant*, which dependeth vpon a maner as appertinent vnto it, termed of *Kitchin* an incident, that may be separated from the subiect. Of this *M. John Skeene* de

de verbo. sig. hath these wordes:  
*dicatur advocatio Ecclesia, vel quia*  
*patronus alicuius Ecclesia ratione*  
*sui iuris advocat se ad eandem Ec-*  
*clesiam, & asserit se in eadem ha-*  
*bere ius patronatus, eamque esse sui*  
*quasi clientis loco, vel potius cum*  
*aliquis (nempe patronus) advocat a-*  
*lium iure suo ad Ecclesiam vacante,*  
*eumque loco alterius (veluti defun-*  
*cti) presentat & quasi exhibet. See*  
*Advowè next following:*

*Advowè, alias avowè (advoca-*  
*tus) is vsed for him that hath*  
*right to present to a benefice, an.*  
*25 Ed. 3. ft. at. 5. ca. unico. There*  
*haue you also (Advowè para-*  
*mount) which is as much as the*  
*highest patron, and is spoken of*  
*the King. Advocatus est ad quem*  
*pertinet ius advocacionis alicuius ec-*  
*clesie, ut ad ecclesiam, nomine pro-*  
*prio non alieno, possit presentare. Fleta*  
*li. 5. ca. 14. §. i. Fitzb. in his nat. br.*  
*fo. 39. vseth it in the same signifi-*  
*cation. See Advowson. and Avowè.*

*Etato probanda, is a writ that*  
*the Kings tenent holding in*  
*chiefe by chivalrie, and being*  
*warde by reason of his nonage,*  
*obteineth to the eschetour of the*  
*countie where he was borne,*  
*or some time, where the land ly-*  
*eth, to enquire, whether he be of*  
*full age to haue deliverie of his*  
*lands into his owe hand. Register*  
*orig. fo. 294. & 295. Fitzb. nat. br.*  
*fo. 253. Who also fo. 257. saith*  
*that this writ is some time dire-*

*cted to the Shireife to empanell*  
*a iurie for this enquirie agai nst a*  
*day certaine, before commissio-*  
*ners authorized vnder the broad*  
*seale to deale in such a cause.*

*Aërie of Goshawkes (aëria ac-*  
*cipitrum) commeth from the*  
*french (aïere) signifiing so much*  
*as (par) in latine or (a paire) in*  
*English For the french man say-*  
*ing that one is (un homme de bonn*  
*aïere) signifieth that he commeth*  
*of a good paire, that is, a good*  
*father and a good mother. It is in*  
*our language the proper word in*  
*hawkes, for that which we gene-*  
*rally call a nest in other birds. So*  
*is it vsed anno 9. H. 3. ca. 13. in the*  
*charter of the forest, and in divers*  
*other places.*

*Affecorours (asseratores, aliàs af-*  
*fidati) may probably be*  
*thought to procede from the*  
*french (affier. i. confirmare, affirma-*  
*re) It signifieth in our common*  
*lawe, those that be appointed in*  
*court leetes, &c. vpon oath to*  
*mult such as haue committed*  
*faults arbitrably punishable, &*  
*haue no expresse penaltie set*  
*downe by statute. The forme of*  
*their oathe you may see in Kitchin.*  
*fo. 46. The reason of this ap-*  
*pellation may sceme to be, be-*  
*cause they that be appointed to*  
*this office, do affirme vpon there*  
*oathes, what penaltie they think*  
*in conscience the offendour hath*  
*deserved. It may likewise proba-*



bly be thought, that this com-  
meth from (*feere*) an olde english  
word signifying a companion, as  
(*gefera*) doeth among the Sax-  
ons by *M. Lamberds* testimonie,  
*verbo (contubernalis)* in his expli-  
cation of Saxon words. And so it  
may be gathered that *M. Kit-  
chin* taketh it. *ca. Amercements*.  
*fo. 78.* in these words. (*Mas file a-*  
*mercement soit affire per pares*)  
where *pares* be put for affectors.  
And there may be good reason  
of this, because they are in this  
busines made companions and  
equals. You shall finde this word  
vied. *an. 25. Ed. 3. sta. 7. viz.* And  
the same Iustices before their ri-  
sing in every sessions, shall cause  
to be affected the amercements,  
as pertaineth, & also to the same  
effect. *an. 26. H. 8. ca. 6. Kitchen. fo.*  
*78.* ioyneth these. 3. wordes togi-  
ther as *synonyma.* (*Affidati, amer-*  
*ciatores, affirours.* *Affidare* in the  
canon lawe is vsed for *fidem dare.*  
*ca. fina. de cognatio. spiriua. in De-*  
*cretal. & ca. super co. de testibus.*  
*Eracton* hath *affidare mulierem*, for  
to be betrothed to a woman. *li.*  
*2. ca. 12.* But I finde in the custo-  
marie of Normandie. *ca. 20.* this  
word (*assenrer*) which the latine  
interpretour expresseth by (*tax-*  
*are*) that is, to set the price of a  
thing, as (*astimare, indicare, &c.*)  
which etymologic of all the o-  
ther pleaseth me best, leauing e-  
uery man to his own iudgemēt.

*Affirme* (*affirmare*) commeth  
either of the latine, or frenche  
(*affirmer*) It signifieth in our com-  
mon law, as much as to ratifie or  
approue a former law or iudge-  
ment. So is the substantiue (*affir-*  
*māce*) vsed *anno. 8. H. 6. ca. 12.* And  
so is the verb it selfe by *M. West.*  
*parte. 2. symbola. titulo, Fines. sect.*  
*152.* And if the iudgement be af-  
firmed, &c. as also by *M. Cromp-*  
*ton* in his diuers *Iurisd. fo. 166.*

*Afforest* (*afforestare*) is to turne  
ground into forest. *charsa de fore-*  
*sta. ca. 1. & 30. an. 9. H. 3.* What  
that is, look more at larg in *Forest.*

*Affraye* (*affreia*) commeth of  
the french (*effraier. i. horrificare,*  
*terrere*) It signifieth in our com-  
mon lawe a skirmish or fighting  
betweene two or more. *M. Lam-*  
*berd* in his *eirenarcha. lib. 2. cap. 3.*  
saith, that it is often times con-  
founded with an assault, but yet  
he is of opinion that they differ  
in this, that where an assault is  
but a wrong to the partie, an af-  
fray is a common wrong: and  
therefore both enquirable and  
punishable in a leete. It might  
be said likewise, that an assault is  
but of one side, and an affray of  
two or more. I thinke this word  
(*affray*) to be two wayes vsed,  
one, as I haue already described  
it, another, for a terror wrought  
in the subiects by any vnlawfull  
sight of violence, or arm or, &c.  
tending toward violence. For so

is it vsed, *anno 2. Ed. 3. cap. 3.*

*Age (aetas)* commeth from the French (*aage*) and signifieth in our language that part of a mans life, which is from his birth vnto his last day. But it is in the common lawe particularly vsed for those especiall times, which enable men or women to do that, which before for want of age, and so consequently of iudgement, they might not do. And these times in a man be two, in a woman fixe. The age of 21. yerres is termed the full age in a man, the age of fourteene yerres, the age of discretion, *Littleton li. 2. ca. 4.* In a woman there are fixe seuerall ages obserued, that seuerally enable her to do fixe seuerall things. *Broke. Gard. 7.* First, at 7. yerres of age the Lord her father may distraine his tenents for ayde to marry her: for at those yerres she may consent to matrimonic, *Bract. lib. 2. cap. 36. nu. 3.* Secondly, at the age of nine yerres she is dowable: for then, or within halfe a yeare after, is she able *promereri dotem, & virum sustinere.* *Fleta li. 5. cap. 22. Littleton lib. prim. cap. 5.* which *Bracton loco citato* doth notwithstanding limit at 12. yerres. Thirdly, at twelue yerres she is able finally to ratifie and confirme her former consent giuen to matrimonic. Fourthly, at 14. yerres she is enabled to receiue her land

into her owne hands, and shall be out of ward, if she be of this age at the death of her ancestor. Fifthly, at sixteene yerres she shal be out of ward, though at the death of her auncestor she was within the age of fourteen yerres. The reason is, because then she may take a husband able to performe Knights seruice. Sixthly, at 21. yerres she is able to alienate her lands and tenements, *Instit. iure com. cap. 24.* Touching this mater, take further these notes perspicuously gathered. At the age of 14. yerres a striplin is enabled to chuse his owne guardian, and to claime his land holden in socage, *Dyer fol. 162.* which *Bracton* limiteth at fiftene yerres, *li. 2. cap. 37. num. 2.* with whom *Glanville* also agreeth, *lib. 7. cap. 9.* And at the age of fourteene yerres, a man may consent to mariage, as a woman at 12. *Bracton. ubi supra.* At the age of fiftene yerres a man ought to be sworne to keepe the kings peace, *anno 34. Edw. 1. Stat. 3.* The age of 21. yerres compelleth a man to be knight, that hath twentie pounds land *per annum* in fee, or for tearme of life, *anno 1. Edw. 2. stat. 1.* and also enableth him to contract and to deale by himself, in all lawfull causes appertaining vnto his estate. Which vntill that time, he cannot with the security of those that deale with him.



This the Lombords settle at 18. yeares, as appeareth by *Hotmans* disputations *in libros feudorum*, l. 2. c. 53. ver. *decimo octavo anno*. which power the Romans permitted not *vsque ad plenam maturitatem*, and that they limited at 25. yeares. *lib. 1. in fine π. de maior. 25. an. l. fin. Co. de Legit. tut. in principio, titulo de curat. in Institutum*. The age of twelue yeares bindeth to appearance before the Sheriffe and Coroner for enquirie after robberies, *an. 52. H. 3. cap. 24.* The age of 14. yeares, enableth to enter an order of religion without consent of parents, &c. *anno 4. H. 4. cap. 17.*

*Age prier (atatem precari)* or (*etatis precatio*) is a petition made in court by one in his minoritie, hauing an actiō brought against him, for lands coming to him by discent, that the action may rest vntill he come to his full age: which the Court in most cases ought to yeeld vnto. This is otherwise in the ciuill lawe, which inforceth children in their minoritie to answer by their tutors or curatours, *π. de minor. 25. an.*

*Agenhine*. See *Haghenhine*.

*Agist (agistare)* seemeth to come of the French (*gist. i. iacet*) hauing (*gistre*) in the Infinitive moode, whence commeth the nowne (*gisme*) a lying in child-bed: or rather of (*gister. i. stabulari*) a word proper to a Deare,

*cum sub mensem Maium ē locis abditis in quibus delictum emigrans, in loco deserto stabulari incipit, unde commodum ē propinqua sit pabulario. Budens in posteriori libro philologia.* Where also he saith, that (*giste*) *est idem quod lustrum vel cubile.* Or it may be probably deduced from the Saxon word (*Gast. i. hospes.*) It signifieth in our common lawe, to take in and feede the catell of straungers in the kings forest, and to gather the money due for the same to the kings vse, *Charta de Foresta, an. 9. H. 3. cap. 9.* The Officers that do this, are called (*agistors*) in English, Guest-takers, *eodem. cap. 8. Cromptons iurisdic. fol. 146.* These are made by the kings letters patents vnder the great seale of England: of whom the King hath foure in number within euery forest, where he hath any pawnage, called *agistors*, or Gist-takers. And their office consisteth in these foure points: (*in agistando, recipiendo, imbreuiando, certificando*) *Mannwood parte prima.* Of Forest lawes, p. 336. & 337. whome you may reade more at large. Their function is tearmed *Agistment*, as *agistment* vpon the sea banks, *anno 6. H. 6. cap. 5.*

*Agreement (agreementum. i. aggregatio mentium)* is the assent or cōcord of more to one thing: & this by the author of the newe tearmes of lawe, is either executed

ted or executory: which you may read more at large in him exemplified by cases.

*Ayde* (*auxilium*) is all one in signification with the French (*aide*) and differeth in nothing, but the onely pronunaciō, if we take it as it is vied in our vulgar language. But in the common lawe, it is applied to divers particular significations, as sometime to a subsidie. *anno. 14. Ed. 3. stat. 2. ca. 1.* sometime to a prestation due from tenents to their Lords, as toward the releife due to the Lord Paramount, *Glanville li. 9. cap. 8.* or for the making of his sonne knight, or the marrying of his daughter, *idem, eodem*. This the King, or other Lord by the auncient lawe of England, might lay vpon their tenents, for the knighting of his eldest sonne at the age of 15. yeares, or the marriage of his daughter at the age of leuen yeares, *Regist. orig. fol. 87. a.* and that at what rate them selues listed. But the Statute, *Westmin. 1. anno 3. Edw. 1.* ordained a restraint for to large a demand, made by common persons being Lords, in this case, and tyed them to a certaine rate. And the Statute made *anno 25. Ed. 3. stat. 5. cap. 11.* prouideth, that the rate set downe by the former Statute, should hold in the King, as well as in other Lords. Of this I find mention in the Statute, *an.*

27. *H. 8. ca. 10.* This imposition seemeth to haue descended to vs from *Normandie*: for in the grand custumarie, *cap. 35.* you haue a Tractate intituled (*des aides chevelz. 1. de auxilys capitalibus*) whereof the first is (*a faire l'aynè filz de son seigneur chevalier. i. ad filium primogenitum militem faciendum*) the second, (*son amee fille marier. i. ad filiam primogenitam maritandam*.) And the third, (*a rechapter le corps de son seigneur de prison quand il est prius per la guerre au Duc. i. ad corpus domini sui de prisiona redimendum cum captus fuerit pro bello Ducis Normandia.* Also I find in *Cassianus de cōsuet. Burg. Quod dominus accipit à subditis pro dotanda filia, pa. 122.* which seemeth to be all one with this our imposition: and also in *Vincentius de Franchis decis. 131.* where he calleth it *ad iutorium pro maritanda filia*. Whence it appeareth, that this custome is within the kingdome of *Naples* also. Touching this likewise, you may reade these words in *Manochius, lib. 2. de arbitrat. Iud. quest. centuria. 2. cap. 181.* *Habent sepissime feudorum possessores & Domini multa in eorum ditioribus privilegia, multasq; cum locorum incolis conventiones: inter quas, illa una solet nominari, ut possit Dominus collectam illis indicare, pro solatione dotium suarum filiarum, cum matrimonio collocantur.*



*Hoc aliquando Roma obseruauit à Caligula fuisse, in illius vita scribit Suetonius, cap. 42. Hodie hic usus in subalpina regione est frequens, ut scribit Iacobinus de Sancto Georgio, in tractu de homagiis. col. 8. Etiam pro filia quæ religionem ingreditur. & non modo pro una filia, sed pleribus filiabus, non tamen pro secundis nuptijs exigitur. In which place, the said author maketh mention of diuers other Civilians and feudists, that record this custome to be in other places. Of this aide, our Fleta writeth thus: sicut etiam quedam consuetudines quæ seruitia non dicuntur, nec concomitantia seruitiorum, sicut rationabilia auxilia ad filium primogenitum militem faciendum, vel ad filiam primogenitam maritandam: quæ quidem auxilia sunt de gratia & non de iure, pro necessitate & indigentia domini capitalis. Et non sunt predialia sed personalia, secundum quod perpendi poterit in breui ad hoc prouiso, &c.*

This word (ayde) is also particularly vsed in matter of pleading, for a petition made in court for the calling in of helpe from another, that hath an interest in the cause in question, and is likely both to giue strength to the party that prayeth in aide of him, and also to auoide a prejudice growing toward his owne right, except it be preuented. For example: when a tenent for terme of life, by courtesie, tenent in

taile after possibility of issue extinct, for tearme of yeares, at will, by elegit, or tenent by statute merchant being impleaded touching his estate, may *petere auxilium*, that is, pray in ayde of him in the reuersion (that is) desire or intreate the court, that he may be called in by writ, to alledge what he thinketh good for the maintenance both of his right, and his owne. Termes of the lawe. *Fitzh.* mentioneth both (*prier en ayde*) and (*prier ayde de patron, &c.*) *auxilium petere a patrono, nat. br. fol. 50. d.* and the new booke of entries, *verbo, Ayde de parcener, auxilium de parcionario, fol. 411. columna 4.* This the later practicioners in the ciuill lawe, call *authoris laudationem vel nominationem*. *Emericus in pract. titulo. 48.* This *ayde prier*, is also vsed sometime in the kings be-hooft, that there be no proceeding against him, vntill the kings Councell be called, and heard to say what they thinke good, for the auoyding of the kings preiudice or losse, touching the cause in hand. For example: if the kings tenent holding in chiefe, be demaunded a rent of a common person, he may pray in ayde of the king. Also a citie or borough that hath a fee ferme of the king, any thing being demaunded against them which belongeth thereunto, may pray in ayde of the

the King, &c. Terms of the law. of this thing you may read the statute (*de bigamis. a. 4. Ed. 1. ca. 1. 2. & 3. & anno. 14. Ed. 3. stat. 1. ca. 14.*) The civile law in suites begunne betweene two, alloweth a third to come in (*pro interesse*) and he that commeth in for his interest, commeth either *assistendo* or *opponendo*, &c. The former is like to this (*ayde prier*) the other to that which our common lawyers call *Receyte*. Looke *Receyte*.

*Aile* (*avo*) commeth of the French (*aierl. i. avus*) & signifieth a writ that lieth, where the grād-father or great grandfather called of our common lawyers (*besayle*) but in true French (*bisaical*) was seised in his demaines as of fee, of any land or tenement in fee simple, the day that he died, and a stranger abateth or entreth the same day, and dispossesseth the heire. *Fitzb. nat. br. fo. 221.*

*Alderman* (*aldermannus*) is borrowed from the saxon (*Ealderman*) signifying as much as Senator in latine. *Lamb.* in his explicca of Saxon words. *verbo senator.* See *Roger Hoveden parte poster. suorum. annal. fo. 346. b.*

*Alex sans jour*, is *verbatim*, to goe without day: the meaning wherof is, to be finally dismissed the courte: because there is no day of farder appearāce assigned, *Kitchin. fo. 140.*

*Ale-tassor*, is an officer ap-

pointed in every court leete, and sworne to looke to the assise, and the goodnes of bread and ale or beere, within the precincts of that Lordship. *Kitchin. fo. 46.* where you may see the forme of his oath.

*Alias v. Capius alias.*

*Alien* (*alienare*) commeth of the French (*aliener*) and signifieth as much as to transerre the propertie of any thing vnto another man. To *alien* in *normaine*, is to make over lands or tenements to a religious companie, or other body politike. *Stawf. prero. fo. 48.* looke *Mormayn*. To *alien* in fee, isto sel the fee simple of any land or tenement, or of any incorporeall right, *West. 2. ca. 25. anno. 13. Ed. 1.*

*Alien alias alien* (*alienigena*) commeth of the latine (*alienus*) and signifieth one borne in a straunge country. It is ordinarily taken for the contrarie to (*Denizen*) or a naturall subiect, that is, one borne in a straunge country, and neuer heere enfranchised. *Broke. Denizen. 4. &c.* And in this case, a man born out of the land, so it be within the limits of the Kings obedience, beyond the seafe, or of English parents, our of the Kings obedience (so the parents at the time of the birth, be of the Kings allegiance) is no alien in account, but a subiect to the King. *Statute. 2. a. 25. Ed. 3. ca.*



*unico*, commonly called the Statute, *De natis ultra mare*. Also if one borne out of the kings allegiance, come and dwell in *England*, his children (if he beget any heere) be not aliens, but denizens. Termes of the lawe. See *Denizen*.

*Allaye* (*Allaya*) is vsed for the temper and mixture of siluer and gold, anno 9. H. 5. Stat. 2. cap. 4. & Stat. 1. eiusdem anni, cap. 11. The reason of which allay is, with a baser mettall to augment the waight of the siluer or gold so much, as may counteruaile the Princes charge in the coining. *Antonius Faber de nummariorum debitorum solutionibus*, cap. 1.

*Allocatione facienda*, is a writ directed to the Lord Treasurer, and Barons of the Exchequer, vpo complaint of some accountant, commaunding them to allow the accountant such sums, as he hath by vertue of his office lawfully and reasonably expended, *Register. orig. fol. 206. b.*

*Alluminor*, seemeth to be made of the French (*allumer*, i. accendere, incendere, inflammare) it is vsed for one that by his trade coloureth or painteth vpon paper or parchment. And the reason is, because he giueth grace, light, and ornament by his colours, to the letters or other figures coloured. You shall find the word, *an. 1. R. 3. ca. 9.*

*Almaine rivets*, be a certaine light kind of armor for the body of a man, with sleeues of maile, or plates of iron, for the defence of his armes. The former of which words, seemeth to shewe the countrie where it was first invented: the other, whether it may come from the French verb (*revestir*, i. *superinduere*) to put on vpon another garment, I leaue to farther consideration.

*Almoner* (*eleemosinarius*) is an officer of the kings house, whose function is, *fragmenta diligenter colligere, & ea distribuere singulis diebus egenis: egrotos & leprosos, in carceratos, pauperesq; viduas, & alios egenos vagosq; in patria commorantes, charitative visitare: item equos relictos, robas, pecuniam, & alia ad eleemosynam largita, recipere & fideliter distribuere. Debet etiam regem super eleemosynae largitione crebris summonitionibus stimulare, & precipue diebus Sanctorum, & rogare ne robas suas quae magni sunt pretii, histrionibus, blanditoribus, adulatoribus, accusatoribus vel menestralis, sed ad eleemosinae suae incrementum iubeat largiri*, *Fleta. lib. 2. cap. 22.*

*Almoine* (*eleemosina*.) See *Frank almoine*.

*Almond* (*amygdalum*) is well knowne to euery mans sight: it is the kinnell of a nut or stone, which the tree in Latine called (*amygdalus*) doth beare with-

within a huske in maner of a walnut, of whose nature, and diuersities you may reade *Gerards Herball, lib. 3. cap. 87.* This is noted among merchandize that are to be garbled, *anno 1. Iaco. ca. 19.*

*Alnegeor, aliàs, aulnegeor (vlniger vel vlnator)* cometh from the French (*aulne*) an elle, or elwand, and signifieth an officer of the Kings, who by himselfe or his deputie, in places conuenient, looketh to the assise of wollen cloth made through the land, and to seals for that purpose ordained vnto them, *an. 25. Ed. 3. Stat. 4. cap. 1. anno 3. R. 2. cap. 2.* who is accomptable to the king for euery cloth so sealed in a fee or custome therunto belonging, *anno 17. R. 2. cap. 2.* Reade of this more, *anno 27. Ed. 3. cap. 4. anno 17. R. 2. cap. 2. & 5. anno 1. H. 4. cap. 13. anno 7. eiusdem. cap. 10. anno 11 eiusd. cap. 6. anno 13. eiusd. cap. 4. anno 11. H. 6. cap. 9. anno 31. eiusdem. cap. 5. anno 4. Ed. 4. ca. 1. anno 8. eiusdem. cap. 1. & an. 1. R. 3. cap. 8.*

*Ambidexter* is that iurour or embraceour, that taketh of both parties for the giuing of his verdict. He forfeiteth ten times so much as he taketh, *anno 38. Ed. 3. cap. 12. Cromptons iustice of peace, fol. 156. b.*

*Amendment (emendatio)* cometh of the French (*amendement*) and signifieth in our com-

mon lawe, a correction of an error committed in a processe, and espyed before iudgement. Terms of the lawe. *Broke, titulo Amendement per totum.* But if the fault be found after iudgment giuen: then is the party that wil redresse it, driuen to his writ of error. Tearmes of the lawe, *Broke titulo Error.*

*Amerciament (amerciamentum)* signifieth the pecuniarie punishment of an offender against the King or other Lord in his court, that is found to be (*in misericordia*) i. to haue offended, and to stand at the mercie of the King or Lord. There seemeth to be a difference betweene amerciaments and fines, *Kitchin fol. 214.* And I haue heard comon Lawyers say, that fines, as they are taken for punishments, be punishments certaine, which grow expressely from some statute, and that amerciaments be such, as be arbitrably imposed by affectors. This is in some sort confirmed by *Kitchin fol. 78.* in these words: (*l'amerciamēt est affire per pares.*) *M. Mannood* in his first part of *Forest lawes. pag. 166.* seemeth to make another difference, as if he would inferre an amerciamēt to be a more easie, or more mercifull penaltie, and a fine more sharpe and grieuous. Take his wordes: If the pledges for such a trespasse (saith he) do appeare



by common summons, but not the defendant himselfe: then the pledges shall be imprisoned, for that default of the defendant: but otherwise it is, if the defendant himselfe do appeare, and be ready in Court before the Lord Iustice in eyre, to receiue his iudgment, and to pay his fine. But if such pledges do make default, in that case the pledges shall be amerced, but not fined, &c. The author of the new tearmes of lawe, saith, that amerciament is most properly a penalty assessed, by the peeres or equals of the partie amerced for an offence done, for the which he putteth himselfe vpon the mercie of the Lord. Who also maketh mentiō of an amerciament royal, and defineth it to be a pecuniarie punishment laid vpon a Sheriffe, Coroner, or such like Officer of the kings, amerced by Iustices for his offence. See *Misericordia*.

*Amoveas manum.* Looke ouster le maine.

*An, iour, & waste (annus, dies, & vastum.)* Looke yeare, day, and waste.

*Anscaling of tile, anno.* 17. Ed. 4. ca 4.

*Annats, (Annates)* seemeth to be all one with first frutes. *anno.* 25. H. 8. ca. 20. looke, First frutes. The reason is, because the rate of first frutes payed of spirituall liuings, is after one yeares profite.

Of which *Polydore Virgil, de inuentione rerum, lib. 8. cap. 2.* saith thus: *Nullum inuentum maiores Romano Pontifici cumularunt opes, quam annatus (quas vocant) usus, qui cum nino multo antiquior est, quam recētiore quidam scriptores suspicantur. Et annates more suo appellant primos fructus unius anni sacerdotii vacantis, aut danidiam eorum partem. Sanē hoc vectigal iam pridem, cum Romanus Pontifex non habuerit tot possessiones quot nunc habet, & cum oportuerit pro dignitate, pro officio, multos magnosque facere sumptus, paulatim impositum fuit sacerdotiis vacantibus quae ille conferret: de qua quidem re ut gravi, saepe reclamatum fuisse testatur Henricus Hostiensis, qui cum Alexandro 4. Pontifice vixit, sic ut Franciscus Zabarellus tradat post hac in concilio Viennensi, quod Clemens quintus indixit (qui factus est Pontifex anno salutis humanae, 135.) agitatū fuisse, ut, eo deposito, annatum onere vigesima pars vectigalium sacerdotium penderetur quotannis Romano Pontifici, & id quidem frustra. Quare Pontifex annatas in sua nassa retinuit, ut ne indidem exire possent: lege caetera.*

*Annieted*, commeth of the French (*aneantir. i. se abicere, atque prosternere*) It signifieth with our lawyers, as much as frustrated or brought to nothing, *Litleton. lib. 3. cap. warrantie.*

*Annua pensione*, is a writte, whereby

wherby the king hauing due vnto him an annuall pension from any Abbot or Prior for any of his Chaplaines, whom he shal think good to name vnto him, being as yet vnprouided of sufficient liuing, doth demandaund the same of the said Abbot or Prior for one, whose name is comprised in the same writ, vntill, &c. and also willeth him, for his Chaplaines better assurance, to giue him his letters patents for the same. *Register orig. fol. 265. & 307. & Fitzh. nat. br. fol. 231.* where you may see the names of al the Abbeyes and Priories bound vnto this, in respect of their foundatiō or creation: as also the forme of the letters patents vsually graunted vpon this writ.

*Annuite (annuus reditus)* signifieth a yearely rent to be paide for tearme of life or yeres, or in fee, and is also vsed, for the writ that lyeth against a man for the recouerie of such a rent, either out of his land, or out of his coffers, or to be receiued of his person, at a day certaine every yere, not satisfying it according to the graunt. *Register. orig. fol. 158. Fitz. nat. br. fol. 152.* The author of the new tearmes of law defineth (*annuite*) to be a certaine summe of money graunted to another in fee simple, fee taile, for tearme of life, or of yeaeres, to receiue of the graunter, or his

heires, so that no Free-hold be charged therewith, whereof a man shall neuer haue assise or other action, but a writ of annuities. *Sainigerman* in his booke intituled (*The Doctor and Student*) *dialogo primo, cap. 3.* sheweth diuers differences betweene a rent and an annuities, whereof the first is, that euery rent, be it rent seruice, rent charge, or rent seck, is going out of land: but an annuity goeth not out of any land, but chargeth onely the person: that is to say, the graunter, or his heires that haue affects by descent, or the house, if it be granted by a house of religion, to perceiue of their coffers. The second difference is, that for the recouerie of an annuity, no action lyeth, but onely the writ of annuities against the graunter, his heires, or successors: but of a rent, the same actions lye as do of land, as the case requireth. The third difference is, that an annuities is neuer taken for affects, because it is no Free-hold in lawe, neither shall be put in execution vpon a statute Merchant, statute Staple, or elegit, as a rent may. *Dyer fol. 345. num. 2.* speaketh also to this effect:

*Anrise seede (semen Anisi)* is a medicinall seed not vnknowne, so called of the hearbe *anisum*, whereof it is the fruite. Of this he that listeth may reade *Ge-*



*rads herball. li. 2. ca. 397.* It is noted among the garbleable drugs and spices. *anno. 1. Iaco. ca. 19.*

*Anoifance, alias Noifance, alias Nufance (nocumentum)* commeth of the French (*nuifance. i. incommidum, noxa*) and hath a double signification, being vsed as well for any hurt done either to a publike place, as (high way, bridge, or common river) or to a private, by laying any thing, that may breede infection, by incroaching, or such like means: as also, for the writ that is brought vpon this transgression: whereof see more in *Nufance*. The word (*anoifance*) I finde, *anno 22. H. 8. ca. 5.*

*Apostata capiendo*, is a writ that lyeth against one, that hauing entered and professed some order of religion, breaketh out againe, and wandereth the country, contrarily to the rules of his order. For the Abbot or Prior of the house, certifying this into the chawncerie, vnder their common seale, and praying this writ directed to the Shyreue for the apprehensio of such offendour, and for the delivery of him again to his Abbot or Prior, or their lawful attorney, were wont to obtaine the same. The forme whereof, with other circumstances, you shall finde in the *Register. orig. fo. 71. & 267.* and *Fitzh. nat. br. fo. 233. C.*

*Appre'ment*, commeth of the French (*pareilement. i. similiter, perinde, utidem*) and signifieth a resemblance: as apparelment of warre. *anno 2. R. 2. stat. 1. ca. 6.*

*Appeale (appellum)* commeth of the French (*appeller. i. accire, accersere, nominare, euocare, clamore aliquem flagitare*) It signifieth in our common lawe, as much as (*accusatio*) with the civilians. For as in the civile lawe, cognisance of criminal causes, is taken either vpon inquisition, denunciation, or accusation: so in ours, vpon indictment or appeale, indictment comprehending both inquisition, and denunciation. And accusation or apeale, is a lawfull declaration of another mans crime (which by *Bracton* must be felonie at the least in the common lawe) before a competent Iudge, by one that setteth his name to the declaration, and vndertaketh to prooue it, vpon the penaltie that may ensue of the contrary. To declare the whole course of an appeale, weare to much for this treatise. Wherefore for that, I must referre you to *Bracton. li. 3. tract. 2. ca. 18. cum sequent.* *Britton. ca. 22. 23. 24. 25.* and to *S. Thomas Smith. li. 3. de repub. Anglo. ca. 3.* and lastly to *Stamf. pl. cor. li. 2. ca. 6. 7. & c. vsq; 17.* An appeale is commenced two waies: either by writte, or by bill. *Stamf. ubi supra. fo. 46.* And it may be gathered

red by him. *fo. 148.* that an appeale by writ is, when a writ is purchased out of the chauncerie by one to another to this ende, that he appeale a third of some felonie committed by him, finding pledges that he shall doe it, and deliuer this writ to the Shyreue to be recorded. Appeale by bill is, when a man of himselfe giueth vphis accusation in writing to the Vicount or Coroner, offering to vndergoe the burden of appealing another therein named. This pointe of our lawe, among others, is drawne from the *Normans*, as appeareth plainly by the grand custumarie. *ca. 68.* where there is set downe a solemne discourse of both the effects of this appeale. *viz.* the order of the cōbate, & of the tryall by enquest: of which by the common lawe of England, it is in the ioyce of the defendant, whether to take. See the newe booke of entrise. *verbo Appel.* & the booke of Assises. *fo. 78. Appel.*

Appeale of *mahem* (*appellum mahemy*) is an accusing of one that hath maymed another. But that being no felony, the appeale thereof is but in a sort, a raction of trespas: because there is noe thing recouered but dammages. *Bracton* calleth this (*appellum de plagis & mahemio*) and writeth of it a whole chapter. *li. 3. tract. 2. ca. 24.* See *S. Ed. Cook. 4. vol. fo. 43. a*

Appeale of wrong imprisonment (*appellum de pace & imprisonmento*) is vsed by *Bracton*, for an action of wrong imprisonment, whereof he writeth a whole tract. *li. 3. tractat. 2. ca. 25.*

Appeale (*appellatio*) is vsed in our common law diuers times, as it is taken in the civile lawe: which is a remouing of a cause from an inferiour iudge to a superiour. as appeale to Rome. *an. 24. H. 8. ca. 12. & an. 1. Eliz. ca. 1.* But it is more cōmonly vsed, for the priuate accusation, of a murderer by a party, who had interest in the partie murdered or of any felon by one of his complices in the fact. See *Approver.*

Appendant (*appendens*) is any thing belonging to another, as *accessorium principali*, with the *Civilians*, or *ad unctum subiecto*, with the *logicians*. An hospitall may be appendant to a Maner. *Fitzh. nat. br. fo. 142.* Common of fishing appendant to a free hold. *Westm. 2. ca. 25. anno. 13. Ed. 1.*

Appertinances (*pertinentie*) cometh of the French (*appartenir. i. pertinere*) It signifieth in our common lawe, things both corporal, belonging to another thing, as to the more principal: as hamlets to a chiefe Maner, common of pasture, turbarie, piscarie, and such like; and incorporeal, as liberties and services of tenents. *Brit. ca. 39.* where I note by the



way, that he accounteth common of pasture, turbarie, and piscary, to be things corporal. looke *Common*.

*Apportionment* (*Apportionamentū*) is a dividing of a rent into parts, according as the land, whence the whole rent issueth, is divided among two or more. See the new termes of lawe.

*Apprentice* (*Apprenticius*) cometh of the French (*aprenti*. i. *tyro & rudis discipulus*) or of the verb (*apprendre*. i. *addiscere, discere*) and signifieth with vs, one that is bound by couenant in word or writing, to serue another man of trade for certaine yeares, vpon condition, that the artificer or man of trade, shall in the meane time endeavour to instruct him in his art or misterie. *S. Thomas Smith*, in his booke *de rep. Ang. li. 3. ca. 8.* saith, that they are a kinde of bond men, differing onely, in that they be seruants by couenant and for a time. Of these you may reade diuers statutes made by the wisdom of our realme, which I thinke superfluous heere to mention.

*Appropriation* (*appropriatio*) proceedeth from the French (*appropri*. i. *aptare, accommodare*) and properly signifieth, in the lawe of England, a severing of a benefice ecclesiasticall (which originally and in nature is, *iuris diuini & in patrimonio nullius*) to the proper

and perpetuall vse of some Religious house or Deane, &c. and Chapter, Bishoprick or Colledge. And the reason of the name I take to be this : because that whereas persons ordinarily be not accounted (*domini*) but (*usufructuary*) hauing no right of fee simple. *Littleton. titulo Discontinuance* : these, by reason of their perpetuities, are accounted owners of the fee simple, and therefore are called *proprietary*. And before the time of *Richard* the second, it was lawfull (as it seemeth) simply, at the least by mans lawe, to appropriate the whole fruites of a benefice to an abbey or priory, they finding one to serue the cure. But that King made so euill a thing more tolerable by a lawe, whereby he ordeined, that in euery licence of appropriation made in chancery, it should expressly be contained, that the diocesan of the place should provide a conuenient summe of money yearly to be paid out of the fruites, toward the sustenance of the poore in that parish, and that the Vicar should be well and sufficiently endowed. *anno. 15. Rich. 2. ca. 6.* Touching the first institution, & other things worth the learning about appropriations, reade *Plowden in Grendons case. fo. 496. b. & seqq.* as also the new termes of lawe, *verbo Appropriation*. To

an appropriation, after the licence obtained of the King in chauncerie, the consent of the Diocesan, Patron, and incumbent are necessarie, if the Church be full: but if the Church be voided, the Diocesan and the Patron vpon the Kings licence may conclude it. *Plowden ubi supra*. To dissolue an appropriation, it is enough to present a Clerke to the Bishop. For, that once done, the benefice returneth to the former nature. *Fitzh. nat. br. fo. 35. F.*

*Approvour* (*approbator*) commeth of the French (*approver. i. approbare, comprobare, calculum albo adijcere*) It signifieth in our common law, one that cōfessing felony of him self, appealeth or accuseth another, one or more, to be guilty of the same; & he is called so, because he must prooue that which he hath alleadged in his appeale. *Stawnf. pl. cor. fo. 142.* And that prooffe, is by battell or by the countrey, at his election that appealed. The forme of this accusation, you may in part gather by *M. Cromptions* Iustice of peace. *fo. 250. & 251.* that it is done before the coroner, either assigned vnto the felon by the court, to take and record what he saith, or els called by the felon himselfe, and required for the good of the Prince & common wealth, to record that which he saith, &c. The oath of the appro-

uer, when he beginneth the combat, see also in *Crompton* in the very last page of his booke, as also the proclamation by the Herald. Of the antiquity of this law, you may reade something in *Horns myrror of Iustices. l. 1. in fine cap. del office del coroner*. Of this also see *Bracton* more at large, *lib. 3. tract. 2. cap. 21. & 34.* and *Stawnf. pl. cor. lib. 2. cap. 52. cum seq.*

*Approvers* of the king (*Approvatores regis*) be such as haue the letting of the kings demeasnes in final Manors to the kings best aduantage, *anno 51. H. 3. Stat. 5.* See *Approve*.

*Approve* (*approbare*) commeth of the French (*approver, i. approbare, comprobare, calculum albo adijcere*) it signifieth in the common lawe to augment, or (as it were) to examine to the vttermost. For example: to approve land, is to make the best benefite thereof by increasing the rent, &c. So is the Substantiue (*approvement*) vsed in *Cromptons inrisd. fol. 153.* for the profits them selues. So is it likewise in the statute of *Merton cap. 4. anno 2. H. 3.* land newly approved, *Old. nat. br. fol. 79.* So the Sheriffes called themselves the kings approvers, *anno 1. Ed. 3. cap. 8.* which is as much in mine opinion as the gatherers or exactors of the kings profits. And *anno 9. H. 6. cap. 10.*

Bailiffes



Bailiffes of Lords in their franchises be called their approuers. But *anno* 2. *Ed.* 3. *cap.* 12. Approuers be certaine men especially sent into feuerall counties of the Realme, to increase the Fermes of hundreds and wapentakes, which formerly were set at a certaine rate to the Sheriffes, who likewise dimised them to others, the countie Court excepted.

*Approuement* (*appruamentum*) see Approue. See the Register iudiciall. *fol.* 8. *br.* & 9. *a.* See the new tearmes of lawe, *verbo* (*Approuement.*)

*Arbitratour* (*arbitrator*) may be taken to proceede from either the Latine (*arbitrator*), or the French (*arbitre*) it signifieth an extraordinarie iudge in one or moe causes, betweene party and partie, chosen by their mutuall consents, *West. parte 2. Symb. titulo Compromise. Sect.* 21. who likewise diuideth arbitrement, into generall, that is, including all actions, quarels, executions, and demands, and special, which is of one or moe matters, facts, or things specified, *eadem. sect.* 2. 3. 4. The Civilians make a difference betweene (*arbitrum* & *arbitratorem*) *l.* 76. *π. pro socio.* For though they both ground their power vpon the compromise of the parties: yet their libertie is diuers. For *arbitrator* is tyed to proceede and iudge according to

lawe with equitie mingled: *arbitrator* is permitted wholly to his owne discretion, without solemnitie of processe, or course of iudgement, to heare or determine the controuersie committed vnto him, so it be *iuxta arbitrium boni viri.*

*Arches court* (*Curia de archibus*) is the chiefe and auncientest Consistorie, that belongeth to the Archbishop of *Canterburie*, for the debating of spiritual causes: and is so called of the Church in *London* dedicated to the blessed Virgin, commonly called *Bow church*, where it is kept. And the Church is called *Bow church* of the fashion of the Steeple or clocher thereof, whose toppe is raised of stone pillars builded arch-wise, like so many bent bowes.

The Iudge of this Court, is termed the Deane of the Arches, or the officiall of the Arches court. Deane of the Arches, because with this officialtie, is commonly ioyned a peculiar iurisdiction of thirteene parishes in *London* tearmed a Deanrie, being exempted from the authoritie of the Bishop of *London*, and belonging to the Archbishop of *Canterburie*: of which the parish of *Bow* is one & the chiefe, because the Court is there kept. Some others say, that he was first called *Deane of the arches*, because

cause the officiall to the Archbishop, being many times employed abroad, in ambassages for the king and realme, the Deane of the Arches was his substitute in his court, and by that meanes the names became confounded. The iurisdiction of this Iudge is ordinarie, and extendeth it selfe through the whole Prouince of *Canterburie*. So that vpon any appeale made, he foorthwith, and without any farder examinatio of the cause, sendeth out his citation to the party appealed, and his inhibition to the Iudge, from whome the appeale is made. Of this he that will, may reade more in the booke intituled. *De antiquitate Ecclesie Brūānicæ historia*.

*Arma moluta*, seeme to be sharpe weapons that doe cut, & not blunt that doe onely breake or bruise. *Bracton. li. 3. tract. 2. ca. 23. & Starnf. pl. cor. fo. 78. & 79.* whereof *Bracton* hath these words: *arma moluta plagam faciunt, sicut gladius, bisacuta, & huiusmodi: ligna verò & lapides brusturas, orbis, & ictus, qui indicari non possunt ad plagam ad hoc, ut inde veniri possit ad duellum.*

*Armar* (*arma*) in the vnderstanding of our common lawe is extended to any thing, that a man in his anger or surie taketh into his hand, to cast at or strike another. *Cromptons Iustice of peace. fo. 65. a.* So, *armorum appellatio, non*

*utiq; senta & gladios & galeas significat, sed & fustes & lapides. l. 42. π. de verbo. significatione.*

*Array* (*arraia, alias arraiamentum*) commeth of the French (*array. i. ordo.*) which is an old word out of vse: or it may be well deduced from (*raye. i. linea*) It signifieth in our commō lawe, the ranking or setting forth of a iurie or enquest of men impaneled vpo a cause. *a. 18. H. 6 c. 14.* Thence is the verb to array a panel. *old. nat. br. fo. 157.* that is, to set forth one by another, the men empaneled. The array shalbe quashed. *old. nat. br. fo. 157.* By statute, every array in assise, ought to be made foure daies before. *Broke. titulo Panel. nu. 10.* to chalenge the array. *Kitchin. fo. 92.*

*Arreyers*, seemeth to be vsed in the statute. *anno. 12. Rich. 2. ca. 6.* for such officers, as had care of the souldiers armour, to see them duly appointed in ther kinde.

*Arraine* (*arraniare*) commeth of the French (*arranger. i. astinere, ordinare.*) that is, to set a thing in order, or in his place, and the same signification it hath in our common law. For example, he is saide to arraine a writ of *novel disseisin* in a countie, that fitteth it for triall, before the Iustices of that circuit. *old. nat. br. fo. 109. Littleton. fo. 78.* vieth the same word in the same sence. *viz.* the lease arraineth an assise of *novel*



disseisin. Also a prisoner is said to be arraigned, where he is indighted and brought forth to his triall. Arraigned within the verge vpon murder. *Starrf. pl. cor. fo. 150.* The course of this arraignment, you may read in *S. Thomas Smith. de repub. Anglo. li. 2. ca. 23.*

*Arrearages (arreragia)* cometh of the French (*arrierages. i. reliqua*) It signifieth the remaine of an account, or a summe of mony remaining in the hands of an accountant. It is vsed sometime more generally, for any mony vnpaide at the due time: as arrearages of rent. That this word is borrowd from France, it appeareth by *Tiraquel de viroq, retractu. tomo. 2. pa. 32. nu. 10.*

*Arrest (arestum)* cometh of the French (*arrest. i. retinere, retare, subsistere*) or rather, it is a French word in it selfe, signifying a setting, stop, or stay, and is metaphorically vsed for a decree or determinatio of a cause debated or disputed to and fro, as (*arrest du Senat. i. placitum curie*) In our comon law, it is taken most of all for a stay or stoppe: as a man apprehended for debt, &c. is said to be arrested. To pleade in arrest of iudgment, is to shew cause why iudgment should be stayd, though the verdict of the 12. be passed. To plead in arrest of taking the enquest vpon the former issue, is to shew cause

why an enquest should not be taken, &c. *Broke. tit. Repleder.* Take this of learned *M. Lambard* in his *eirenarch. li. 2. ca. 2. pa. 94.* *Bude.* (saith he) in his greeke commentaries is of opinion, that the French word (*arrest*) (which with them signifieth a decree or iudgment of court, tooke beginning of the Greeke (*ἀρrest. i. placitum*) and as we might say, the pleasure and will of a court. And albeit it were not out of the way to think that it is called an arrest, because it stayeth or arresteth the partie: yet I beleue rather, that we receiued the same from the Normane lawes, because we vse it in the same sence with the. For commonly with vs, an arrest is taken for the execution of the commaundement of some court, or of some officer in iustice. But howsoeuer the name began: an arrest is a certaine restraint of a mans person, depriuing him of his owne will and libertie, and binding it to become obedient to the will of the lawe. And it may be called the beginning of imprisonment. Precepts & writs of the higher courts of lawe, do vse to expresse it by two sundry words: as (*capias*) and (*attachies*) which signifie to take or catch hold of a man. But this our precept noteth it by the words (*duce facias*) that is. cause him to be conueyed, &c. For that the offi-

cer hath (after a sort) taken him before, in that he commeth vnto him, and requireth him to go to some Iustice of the peace. Thus farre *M. Lambert*. And by like this word is spred farder then *France*. For *Gaile* a Germaine writer sheweth by his Tractate (*de arrestis imperii*) that it is vsed also in the imperiall territories, & in the same significatiō, c. 1. n. 1.

*Arrestandis bonis ne dissipentur*, is a writ which lyeth for him, whose catell or goods are taken by another, that, during the controuersie, doth, or is like to make them away, and will be hardly able to make satisfaction for the afterward, *Reg. orig. fol. 126. b.*

*Arresto ipsum qui pecuniam recepit ad proficiscendum in obsequium Regis, &c.* is a writ that lieth for the apprehension of him, that hath taken prest money towards the kings warres, and lieth hidden when he should goe. *Register. orig. 24. b.*

*Arresto facto super bonis mercatorum alienigenorum, &c.* is a writ that lyeth for a denizen against the goods of strangers of any other countrie, found within the kingdome, in recompence of goods taken frō him in the said countrie, after he hath bene denied restitution there. *Register. orig. fo. 129. a.* This among the aūciēt Civilians was called (*clarigatio*) now barbarously (*represalia*).

*Arrested (arrestatus)* is he that is conuented before a Iudge, and charged with a crime. *Stamf. pl. cor. lib. 2. 45. quasi ad rectum vocatus*. It is vsed somtime, for (imputed or laid vnto) as, no folly may be arrested to him being vnder age. *Littleton cap. Remitter*. The Latine substantiue (*Rectum*) is vsed in the *Register orig. Chawcer* vseth the verb (arresteth) id est, layeth blame, as *M. Speight* interpreteth it. I may probably coniecture, that this word is the Latine (*rectum*.) For *Bracton* hath this phrase (*ad rectum habere malefactorem*) i. to haue the malefactor soorth coming: so as he may be charged, and put to his triall. *lib. 3. tract. 2. cap. 10.* and in another place (*rectatus de morte hominis*) i. charged with the death of a man, *eod. cap. 1. num. 3.*

*Articles of the Cleargie (articuli Cleri)* be certaine statutes made touching persons and causes ecclesiasticall, anno 9. *Ed. 2.* Like vnto which there were other made, anno 14. *Ed. 3. stat. 3.*

*Assay of measures and waightes (assisa mensurarum & ponderum)* *Register. orig. fol. 279.* is the examination vsed by the Clerke of the market.

*Assayer of the king*, is an officer of the mint, for the due triall of siluer, indifferently appointed betwixt the maister of the Mint,



and the merchants that bring filuer thither for exchange. anno 2. H. 6. cap. 12.

*Assault*, in *fulsus*, commeth of the French verb (*assailir*. i. *adoriri*, *appetere*, *invadere*) which French also proceedeth from the Latine (*assilire*. i. *vim asferre*, *oppugnare*.) It signifieth in our common lawe, a violent kind of iniurie, offered to a mans person, of a higher nature then batterie. For it may be committed by offering of a blowe, or by fearefull speech. *M. Lamberd* in his *circenar. lib. 2. cap. 3.* whome reade. The feudists call this (*assultum*) and define it thus: *Assultus, est impetus in personam aut locum, sine hoc pedibus fiat vel equo, aut machinis, aut quacunque alia re assilatur.* *Zafius de feud. parte 10. nu. 38.* And (*assilire*) est, *vim adferre, adoriri, oppugnare, li. feud. 1. tit. 5. §. 1.*

*Assach*, seemeth to be a Welch word, and to signifie so much, as a kind of excuse, or strange kind of purgation by the oathes of three hundred men. anno 1. H. 5. cap. 6.

*Assart* (*assartum*) in *M. Mamwoods* iudgement *parte. 2. ca. 9. nu. 5.* of his forest lawes, commeth of the French (*assorsir*) signifying (as he saith) to make plaine, or to furnish; but rather indeede, to set in order and handsomly to dispose. *Assartum est, quod redactum*

*est ad culturam.* *Fleta. li. 4. ca. 21. §. Item respondere.* It signifieth, as the said *M. Mamwood* saith. *nu. 1. ubi supra*, an offence committed in the forest, by plucking vp those woods by the rootes, that are thickets or coverts of the forest, and by making them plaine, as earable land, where he also saith, that an *assart* of the Forest, is the greatest offence or trespassse of all other, that can be done in the forest, to vert or venison, containing in it as much as waste or more. For whereas the waste of the Forest, is but the felling and cutting downe of the couerts, which may grow againe in time: an *assart*, is a plucking them vp, &c. which he confirmeth out of the redde booke in the Exchequer, in these words: *Assarta verò, occasiones nominantur, quando sc. foreste nemora vel dumeta, pasuis & laibulis ferarum oportuna, succiduntur: quibus succisis & radicibus avulsis, terra subvertitur & excolitur.* And againe out of the Register originall. *fo. 257. a. b.* in the writ (*ad quod damnum*) sent out in case, where a man sueth for a licence, to assart his grounds in the Forest, and to make it severall for tillage. Soe that it is no offence, if it be done with licence. To this, may *Bracton* also be added. *li. 4. ca. 38 nu. 11.* where he saith, that these words (*boscus efficitur assartum*) signifie as much, as (*redactum*

*in culturam*) of this you may read more in *Cromptons Jurisdiction*. fo. 202. and in *charta de foresta*. anno. 9. H. 3. ca. 4. where the english word is not (*assart*) but *assert*, & in *Mumrood*. parte. 1. of his Forest lawes. pa. 171. The word is vsed. anno. 4. Ed. 1. stat. 1. in the same signification. That which we call (*assartum*) is els where tearmed *Disboscatio*. Decis. Genu. 74.

*Assembly* *valanfull*, (*illicita assemblelata*) cometh of the French (*assembler*. i. *aggregare*) whence also is the substantiue (*assemblee*. i. *coitio*, *congregatio*) It is in our common lawe (as *M. Lamberd* defineth it, *eiren. li. 1. ca. 19.*) the companie of 3. persons (or more) gathered together to doe an vnlawfull act, although they doe it not. See vnlawfulli assemble.

*Assets* (*quod tantundem valet*) *Bract. li. 5. tract. 3. c. 1. 8. m. 2.* is nothing but the French (*assez*. 1. *satis*) For though this word masque vnder the vizard of a substantiue, it is in truth but an adverb. It signifieth in our common lawe, goods enough to discharge that bruden, which is cast vpon the executour or heire, in the satisfying of the testators or auncestors debts or legacies. See *Brooke*. *titulo Assets per descent*: by whome you shall learne, that whosoever pleadeth assets, sayeth nothing, but that he against whome he pleadeth, hathenough descended

or come to his hands, to discharge that which is in demaund. The author of the newe tearmes of lawe, maketh. 2. sorts of assets, *viz. assets par descent*, & *assets en tier mains*. the former, being to be alleaged against an heire, the other, against an executor or administrator.

*Assigne* (*assignare*) both it selfe, and the French (*assigner*), come of the latine. It hath two significations: one generall: as to appoint a *depute*, or to set ouer a right vnto another In which signification, *Britton. fo. 122.* saith this word was first brought into vse, for the fauour of Bastards; because they cannot runne vnder the name of heires to their fathers, and therefore were, & are comprised vnder the name of (*assignees*) The other signification of this word is especial, as to appointe at, or set forth. *viz. to assigne error. old. br. nat. fo. 19.* is to shew in what part of the proces error is committed. To assigne false iudgement. *codem. fo. 17.* that is, to declare how and where the iudgement is vniust. To assigne a false verdict. *eadem. fo. 112.* and to assigne an oath to be false. *xx. 9. R. 2. ca. 2.* To assigne the cessor, *old. nat. br. fo. 134. 1.* to shew how the plaintife had cessed, or giuen ouer. To assigne wast, is to shewe, wherein especially the wast is comitted. *Reg. orig. f. 72.*



*Assigne*, in the generall signification is vsed, *anno 20. Ed. 1. & anno 11. H. 6. cap. 2.* in these words: Iustices assigned to take assises. And the Substantiue (*assignement*) hath the same signification. *West's symb. parte 1. lib. 2. sect. 496. & seq.* In which maner is also vsed the adiectiue (*assignee, assignatus*) viz. for him that is appointed or deputed by another to do any act, or performe any businesse, or enioy any commoditie. And an *assignee* may be either in deed, or in law. *Assignee* in deed, is he that is appointed by a person, an *assignee* in lawe is he, whom the lawe so maketh without any appointment of the person. v. *Dyer fol. 6. num. 5. Perkins in Graumes* saith, that an *assignee* is he, that occupieth a thing in his owne right, and depute, he that doth it in the right of another.

*Assise* (*assisa*) commeth of the French (*assise*) which in the grand customarie of *Normandy*, *cap. 24.* is defined to this effect. *Assise* is an assembly of Knights and other substantiall men, with the Bailiffe or Iustice in a certain place, and at a certaine time appointed. And againe, *cap. 55.* *Assise* is a court, in the which whatsoeuer is done, ought to haue perpetuall strength. This Normane word (*assise*) commeth of the French (*asseoir. collocare*)

to settle or bestow in some place certaine: as (*asseoir*) is to sit downe by another. And metaphorically it is vsed of things incorporeall: as (*asseoir son iugement sur quelque lieu*) is, *interponere iudicium suum*. Of this verbe commeth the participle (*assis*) as (*estre assis*) i *sedere*. And this Participle in the grand customarie of *Normandie*, *cap. 68.* is vsed, as we would say: appointed, limited, or determined, viz. (*au iour qui est assis à faire la bataille, se doivent les champions offrir à la iustice*) that is: at the day which is appointed for the combat, the champions ought to offer themselves to the Iustice. So that by all these places compared together, it is euident whence the original of this word (*assise*) floweth. How diuersly it is vsed in our common lawe, it followeth that we declare. First *Littleton* in the chapter, *Rents*. saith, that it is *equivocum*: where he setteth downe three seuerall significations of it: one, as it is taken for a writ: another, as it is vsed for a Iurie: the third, as for an ordinance. And him, he that listeth, may reade more at large. My collections haue serued me thus: first (*assise*) is taken for a writ directed to the Shyreene, for the recouerie of possession of things immouable, whereof your selfe, or your auncestor haue bene disseised.

disseise. And this is as well of things corporall as incorporeall rights, being of foure sorts: as here they follow in their order.

*Affise of novel disseisin* (*affisa nove disseisine*) lyeth where a tenent in Fee-simple, Fee-taile, or for tearme of life, is lately disseised of his lands or tenements, or else of a rent seruice, rent seck, or rent charge, of common of pasture, of an office, of tolle, tro-nage, passage, pownage, or for a nuisance leuied, and diuers other such like. For confirmation whereof, you may reade *Glanvile lib. 10. cap. 2. Bracton lib. 4. tract. 1. per totum. Britton cap. 70. & seqq. Register orig. fol. 197. Fitz. nat. br. fol. 177. 178. 179. new booke of entries. fol. 74. col. 3. West. 2. cap. 25. anno 13. Ed. 1.* And to this may aptly be added the Bill of fresh force (*frisca fortie*) which is directed to the officers or magistrates of Cities or Townes corporate, being a kinde of affise for recovery of possession in such places within 40. daies after the force, as the ordinarie affise is in the countie. *Fitz. nat. br. fo. 7. c.* This the Civilians call, *iudicium possessorium recuperandi*.

*Affise of mort d' auncester* (*affisa mortis antecessoris*) lyeth, where my father, mother, brother, sister, vncle, aunte, &c. died seised of lands, tenements, rents, &c. that he had in fee simple, and after his

death a straunger abateth: an it is good, as well against the abator, as any other in possession. How likewise this is extended, see *Bracton. li. 4. tract. 3. per totum, Britton. ca. 70. cum multis sequent. Fitz. nat. br. fo. 114. Register. orig. fo. 223.* This the Civilians call, *Iudicium possessorium adipsiendi*.

*Affise of darrein presentment* (*affisa vltimas presentationis*) lyeth, where I, or mine auncellor have presented a Clerke to a Church, and after (the Church being voide by the death of the said Clerke or otherwise) a straunger presenteth his Clerke to the same Church, in disturbance of me. And how otherwise this writ is vsed, See *Bracton. li. 4. tract. 2. Register. orig. fo. 30. Fitz. nat. br. fo. 195.*

*Affise de viura* (*affisa viura*) lyeth either for a parson against a lay man, or a lay man against a parson, for land or tenement doubtfull, whether it be lay fee, or free almes. And of this, see *Bracton. li. 4. tract. 5. cap. 1. & seqq. Brit. ca. 95.* The reason why these writs be called affises, may be diuers. First, because they settle the possession, and so an outward right in him that obtaieth by them. Secondly, they were originally spedde and executed at a certaine time and place formerly appointed. For by the Norinan law, the time and place must



must be knowne 40. daies before the Iustices fate of them: and by our lawe, there must be likewise 15. daies of preparation, except they be tried in those standing courts of the king in *Westminster*: as appeareth by *Fitzb. nat. br. fo. 177. D. E.* Lastly, they may be called assises, because they are tried most commonly by especial courts, set & appointed for the purpose: as may be well proved not onely out of the custumarie of Normandie, but our bookes also: which shew, that in auncient times, Iustices were apointed by especiall commission, to dispatch controversies of possession, one or more, in this or that onely countie, as accasion fell out, or disseisins were offered, & that as well in terme time, as out of terme: whereas of later daies, wee see that all these commissions of assises, of *eyre*, of *oyer & terminer*, of *gaol deliuerie*, and of *mis prius*, are dispatched all at one time, by two severall circuits in the yeare, out of terme, and by such as haue the greatest sway of Iustice, being al of them, either the Kings ordinarie Iustices of his benches, Sergeants at the lawe, or such like.

*Assise*, in the second signification (according to *Lisleton*) is vsed for a Iurie. For (to vse his owne example) it is set downe in the beginning of the record of

an assise, of *novel disseisin*. *Assisa venit recognitura*; which is as much to say, as *Iuratores veniunt recognituri*. The reason why the Iurie is called an assise, he giueth to be this; because by the writte of assise, the Shyreue is commaunded, *quod faciat duodecim liberos & legales homines de vicineto &c. videre tenementum illud, & nomina eorum inbreuiari, & quod summoneat eos per bonas summonitiones, quod sint coram Iustitiariis, &c. parati inde facere recognitionem, &c.* This is (as if he should haue spoken shorter) *metonymia effecti*. For they are called the *assises*, because they are summoned by vertue of the writ so termed. And yet the Iurie summoned vpon a writ of right, is likewise called the assise, as himselfe there confesseth: which writ of right is not an assise. But this may be said to be *καλαχενικός*, or abusiuely so tearmed. *Assise*, in this signification, is diuided in *magnam & parvam*. *Glanvile lib. 2. ca. 6. 7. &c.* and *Britton. c. 12.* where it appeareth, wherein the great assise differeth from the petit assise: whome I wish to be read, by those that would be furder instructed in this point. For this place, thus much in short. The former 4. kindes of assises vsed in actions onely possessory, be called petit assises, in respect of the ground assise. For the law of feefe

is grounded vpon two rights: one of possession, the other of propertie: and as the grand assise serueth for the right of property, so the petit assise serueth for the right of possession. *Horns myrror of Iustices, lib. 2. cap. de nouel. disseisin.*

*Assise* in the third signification according to *Littleton*, is an ordinance or statute: as the statute of bread and ale made, *anno 51. H. 3* is termed the assise of bread and ale (*assisa panis & ceruicie, Regist. orig. fol. 279.b.* The assise of *Clarendon*, (*assisa de Clarendon*) whereby those that be accused of any hainous crime, and not able to purge themselves by fire and water, but must abiure the realme, had libertie of 40. daies to stay, and trie what succour they could get of their friends, toward their sustenance in exile. *Starrs. pl. cor. fol. 118.* out of *Bracton li. 3. tract. 2. cap. 16. num. 2.* Of this also *Roger Hoveden* maketh mention, and more particularly then any that I haue read, *parte poster. suorum annalium, fol. 313.b. in Henrico secundo.* Assise of the Forest, (*assisa de Foresta*) which is a statute or constitution touching orders to be obserued in the kings forest. *Mannwood parte. 1. of his Forest lawes, pag. 35.* *Crompton* in the Court of the Iustices of the Forest *per totum, fol. 146. & seq.* And the assise of the king, *anno.*

*18. Ed. 3. stat. 1.* called the statute for view of Francke pledge. And these be called assises, because they set downe and appoint a certaine measure, rate, or order in the things which they concerne. Of assise in this signification doth *Glanvil* also speake, *lib. 9. cap. 10. in fine.* *Generaliter verum est quod de quolibet placito quod in comitatu deducitur & terminatur, misericordia qua inde prouenit, vicecomiti debetur: quae quanta sit, per nullam assisam generalem determinatum est.* And thus much touching *Littletons* diuision. But if we marke well the writers of the lawe, we shall find this word (*assise*) more diuersly vsed, then this author hath noted. For it is vsed sometime for the measure or quantity it selfe, (and that *per Metonymiam effecti*) because it is the very scantline described or commaunded by the ordinance: as for example we say, when wheate, &c. is of this price, then the bread, &c. shall be of this assise. This word is further taken, for the whole processe in court vpon the writ of assise, or for some part thereof, as the issue or verdict of the Iury. For example, assises of new disseisin, &c. shall not be taken, but in their shires, and after this maner, &c. *mag. char. cap. 12.* And so it seemeth to signifie, *Westm. 2. cap. 25. anno 13. Ed. 1.* in these words:



let the disseissours alledge no false exceptions, whereby the taking of the assises may be deferred, &c. And anno 34. Ed. 1. stat. 2. if it be found by assise: the assise is arraigned: to averre by the assise: the assise by their default shal passe against them: and also an. 1. H. 6. cap. 2. assises awarded by default of the tenants, &c. Lastly, by Merton, cap. 4. anno 20. H. 3. certified by the assise, quite by the assise, &c. And in this signification, Glanville calleth it, *magnam assisam domini regis: que ex duodecim ad minus legalium hominum sacramentis consistit*. lib. 2. cap. 7. Bracton useth it in like sort: as *assisa cadit in transgressionem*. lib. 4. cap. 30. & *assisa cadit in perambulationem*. eodem. cap. 31. num. 2. Fleta defineth an assise in this signification, thus: *Assisa in iure possessorio, est quadam recognitio duodecim hominum iuratorum, per quam Iusticiarii certiorantur de articulis in breui contentis*. An assise also thus signifying, is said sometime to passe, (*per modum assise*) and sometime in *modum iurate*. in maner of an assise, when onely the disseisin in question, is put to the trial of the twelve: in maner of a iurie, when as any exception is objected to disable the interest of the disseisee, and is put to be tryed by the twelve, before the assise can passe. As for example: *Questio*

*status, causa successionis, causa donationis, pactum sine conditio vel conventio, voluntas & dissimulatio, transactio, vel quietaclamatio vel remissio, confirmatio sine consensus, propria usurpatio rei propria, difficultas iudicij, iustum iudicium, finis, chirographum, intruso in rem alienam, vel disseisina, si incontinenti reijciatur, negligentia que per transsum temporis excludit actionem*. Fleta. lib. 4. cap. 10. §. 1. whome reade also to this point, cap. 11. §. Si autem a Domino: and at large, cap. 16. eiusdem libri. & lib. 5. cap. 6. §. Item vertitur assisa & seq. And note that assise in this signification, is taken foure waies, Old nat. br. fol. 105. The first, is assise at large, which is taken aswell vpon other points, as vpon the disseisin. For example, where an infant bringeth an assise, and the deed of his auncestor is pleaded, whereby he claimeth his right or foundeth his title: then the assise shall be taken at large: that is, the iurie shall enquire, not onely whether the plaintiffe were disseised or not by the tenent, but also of these other points: viz. whether his auncestor were of full age, of good memorie, and out of prison, when he made the deed pleaded. Another example out of *Kitchin*, fol. 66. The tenent pleadeth a forraigne release, in barre to an assise, whereupon the cause was adiourned. At the day

day the tenent maketh default. Therefore the assise was taken at large: that is, not onely whether the plaintiffe were disseised, but also whether there be any such forraine release. A third example you may reade in *Litleton. cap.* Estates vpon condition. The second maner of assise in point of assise (*assisa in modum assise*) which is, when the tenent, as it were, setting foote to foot with the demandant, without further circumstance, pleadeth directly contrarie to the writ, no wrong, no disseisin. The third manner is, assise out of the point of assise (*assisa extra assisam, vel in modum iurate.*) viz. when the tenent alledgeth some by exception, that must be tried by a Iurie, before the principall cause can proceed: as if he pleade a foreine release, or foreine mater tryable in another countie. For in this case, the Iustices referre the record to the Court of common p'ees, for the triall of the foreine p'ee, before the disseisin can come to be discussed. Of this sort reade diuers other examples in *Bracton, lib. 4. part. 1. cap. 24.* For there be of them (as he saith) and *Britton* also, *cap. 52.* both dilatorie and peremptorie. The fourth and last manner is: assise of right of damages, and that is, when the tenent confessing a putting out, and referring it to a demurrer in

lawe, whether it were rightly done or not, is adiudged to haue done wrong. For then shall the demandant haue a writ to recouer damages, which is called assise to recouer damages, as also the whole processe.

*Assise*, is further taken for the court, place, or time, where and when the writs and processe of assise be handled or taken. And in this signification assise is generall: as when the Iustices passe their seuerall circuits, euery couple with their commission, to take all assises twice in the yeare. For he that speaketh of any thing done, at that time, and in that place, will commonly say, that it was done at the generall assise. It may likewise be speciall, in this signification: as if an especiall commission should be granted to certaine (as in ancient times they often were, *Bracton. lib. 2. cap. 11. in fine*) for the taking of an assise vpon one disseisin or two: any thing done in the court before them, a man would say, it was done at such an especiall assise. And in this very signification doth *Glanvil* vse it, *lib. 9. cap. 12.* in these words: *Si contra dominum suum & non infra assisam, tunc distringitur ipse occupator, &c.* and *lib. 13. cap. 32.* in these words: *cum quis itaque infra assisam domini regis. i. infra tempus a domino rege de consilio procerum*



*ad hoc constitutum*, quod quandoq<sup>3</sup> maius, quandoq<sup>3</sup> minus censetur, *aluminuste & sine iudicio disseisuerit*, &c. Of this word assise, you may reade in *M. Skene, de verbo. signif. verbo. Assise*, and by him vnderstand, that in Scotland also it is diuersely vsed, viz. in 5. seuerall significations. And touching the fift signification, he hath these words: An assise is called a certaine number of men lawfully summoned, receiued, sworne and admitted to iudge and disterne in sundrie civil causes, syke as perambulations, cognitions, molestations, *pourpresture*, division of lands, seruing of brieues, and in all and sundrie criminall causes decided and tried by an assise: whereof there are two kinds: one ordinarily in vse, which may be called a litle assise of the number of 13. or 15 persons: the other, called a great assise, which consisteth of 25. persons, &c. The rest is very worthe the reading.

*Assisa continuanda*, is a writte directed to the Iustices assigned to take an assise, for the continuance of the cause, in case where certaine records alleaged, cannot in time be procured by the party that would vse it. *Reg. orig. f. 217.*

*Assisa preroganda*, is a writ directed to the Iustices of assise, for the stay of proceeding, by reason of the Kings buisnes, wherein the

partie is imployed. *Register. orig. fo. 208. and fo. 221.*

*Association* (*associatio*) is a patent sent by the King, either of his owne motion, or at the suite of the plaintife, to Iustices appointed to take assises of *novel disseisin*, or of *oyer and terminer*, &c. to take others vnto them as felowes and colleagues in that busines. The dirivation is plaine: the examples, and sundrie vses hereof you may finde, in *Fitzh. nat. br. fo. 185. E. & fo 111. B.* but more particularly in the *Reg. orig. f. 201. 202. 205. 206. 207. 223. 224.*

*Affoie* (*absolvere*) commeth of the French (*absoudre*) and significeth to deliuer or set free from an excommunication. *Stawnf. pl. cor. fo. 72.* in words to this effect: Otherwise the defendat should remaine in prison, vntill the plaintiffe were affoyled, that is, deliuered from his excommunication.

*Assumpsit*, is a voluntarie promise made by word, whereby a man assumeth or taketh vpon him to performe or pay any thing vnto another. This word containeth any verball promise made vpon consideration, which the Civilians expresse by diuers words, according to the nature of the promise, calling it sometime *pactum*, sometime *sponsione*, sometime *promissionem*, *pollicitationem* or *constitutum*, the word seemeth to be drawne from the late

tine (*assumptio*) *que significat professionem. l. x. ad municipalem.*

*Attache* (*attachiare*) cometh of the French (*attacher. i. figere, nettere, alligare, defigere, alligare*) In our common lawe it signifieth, to take or apprehend by commandement or writte. And *M. Lamberd* in his *eirenarch. li. i. cap. 16.* maketh this difference betweene an arrest and an attachment, that an arrest proceedeth out of lower courts by precept, and an attachment out of higher courts by precept or writ: and that a precept to arrest hath these formall words (*duci facias &c*) and a writ of attachment these words: (*precipimus tibi quod attachies talem, & habeas eum coram nobis &c.* whereby it appeareth, that he which arresteth, carrieth the party arrested to another higher person to be disposed of forthwith, he that attacheth, keepeth the party attached, and presenteth him in court at the day assigned in attachment. yet I observe out of *Master Kitchen*, that an attachment issueth out of a court baron, which is a lowe court. *cap: Attachment in court baron, fo. 79.* Another difference there is, that an arrest lieth onely vpon the body of a man, and an attachment some time vpon his good, as shalbe shewed in the sequelle. It may be likewise asked how an attache-

ment and a (*capias*) doe differ: & how an attachment and a (*cape*) and an attachment and a distresse. First that an attachment differeth from a (*capias*) it appeareth by *Kitchin* in these words: *fo. 79.* Note that in a court Baron a man shalbe attached by his goods; and a (*capias*) shall not goe out thence, whereby I gather, that an attachment is more generall, taking hold of a mans goods, and a (*capias*) of his body onely. Then an attachment differeth from a (*cape*) in this, because a (*cape*) be it (*cape magnum*) or (*cape parvum*) taketh hold of immoveables, as lands or tenements, and are properly belonging to action reall: as you may gather out of their formes, in *Fitzh. nat. br.* whereas attachment hath rather place in actions personall, as *Bracton* plainly setteth downe. *li. 4. tracta. 4. ca. 5. m. 3.* Where neuertheless it appeareth that a (*cape*) may be likewise vsed in an action personall. An attachment (as it is formerly said) taketh hold of moueable goods or the bodie. For it appeareth, by *Kitchin. fo. 263.* that a man may be attached by a hundred sheepe. Reade *Skene, de verbo. significo. verbo attachiamenium.*

Now it followeth to shew how attachment differeth from a distresse. For so it doth, as may be shewed out of *Kitchin. fo. 78.*



where he saith, that processe in court baron, is summons, attachment, and distresse, out of the *old. nat. br. fo. 27.* where it is said, that a processe in 2 (*quare impedit*) is summons, attachment, and one distresse, and, againe *fo. 28.* wheare (speaking of the writ) *ne admittas* he saith thus: and the processe is one prohibition, and vpon the prohibition an attachment and distresse, and *fo. 32.* in a writ of (*Indicavit*) you haue these words: and after the attachment returned, the distresse shall goe out of the rols of the Iustices. *Bracton* on the other side, *li. 5. tract. 3. ca. 4. nu. 2.* sheweth, that both (*attachiamentum, & magnum cape, districtiones sunt*). of which opinion *Fleta* also is, *li. 5. ca. 24. §. si autem ad.* But there also he saith, that (*attachiamentum est distractio personalis, & cape magnum distractio realis*). So that by his opinion, *distractio* is (*genus*) to attachment. *Britton* in his 26. chapter, hath words to this effect: but in attachment of felony, there cometh no distresse, otherwise then by the body. And if the Shyreue return in the cases aforesaid, that the trespassours haue nothing in his bayliwick, by the which they may be distreined, it must be awarded that he take their bodies, &c. In which place, an attachment is plainly vsed, for an apprehension

of an offender by his goods. So that to conclude, I finde no difference between an attachment, and a distresse, but these two; that an attachment reacheth not to lands, as a distresse doth, and that a distresse toucheth not the bodie (if it be properly taken) as an attachment doth. yet are they diuers times confounded, as may appeare by the places formerly alleadged, and by *Glanville. li. 10. ca. 3.* and *Fleta. li. 2. ca. 66. & seqq.* How be it, in the most common vse, an attachment is an apprehension of a man by his body, to bring him to answer the action of the plaintiffe: a distresse is the taking of another mans goods, for some reall cause, as rent, seruice, or such like, whereby to drue him to replevie, and so to be plaintiffe in an action of trespass, against him that distreined him. And so much for the difference, and coherencie of these words. See also Distres.

I finde in *West. parte. 2. symbolaio. titulo.* proceedings in chauncerie. *sect. 22. 23.* that attachement out of the chauncery is two-fold, one simple, and originally decreed for the apprehension of of the partie: the other, after return made by the Shyreue *quid defendens non est inventus in baliva sua*, with proclamations made through the whole countie, in such places, as he shall thinke meete

meete, that the partie appeare by a day assigned, and that he attached never the lesse, if he may be found. This second kinde hath an affinity with the canonists (*vys & modis*) at the which if the partie appeare not, he is excommunicate: or with the Civilians (*vys & modis unâ cum intimatione*) For in the chauncerie, if he com not vpō this, he is forthwith pressed with a writ of rebellion.

There is an attachment of privilege, which is a power to apprehend a man in a privileged place, or els, by vertue of a mans privilege, to call another to this or that court, whereunto he himselfe belongeth, and in respect whereof, he is privileged. Newe booke of entrise. *verbo privilege. fo 43; 1.col. 2.* There is also a foreine attachment, which is an attachment of a foriners goods found within a libertie or citie, to satisfie some creditour of his within the citie. There is also an attachment of the forest, which is a court there held. For (as *M. Manwood* saith) in his first parte of forest lawes, p. 90. 92. 99. there be three courts of the forest, wherof the lowest is called the ( *Attachement* ) the meane, the ( *swaynemote* ) the highest, the ( *Iustice seate in eyre.* ) This court of attachment seemeth so to be called, because the verderours of the forest haue

therein no other authoritie, but to receiue the attachements of offenders against vert and venison, taken by the rest of the officers, and to enrol them, that they may be presented and punished at the next Iustice seate. *Manwood. parte. 1. pa. 93.* And this attaching is by three meanes, by goods and catels, by body, pledges, and mainprise, or by the body onely. The court is kept euery. 40. daies throughout the yere. And he that hath occasion to learne more of this, I refer, him to *M. Manwood, loco quo supra*, & to *M. Crompton* in his court of the forest. Attachment is commaunded in writs, the diversitie whereof you may see, in the *Register originall* vnder the word *Attachiamentum in indice.*

*At large.* See assise at large in the word assise, and *owld nat. br. fo. 105.* Verdict at large. *Lutteson. fo. 98.* To vouch at large. *owld. nat. br. fo. 108.* To make title at large. *Kutwin. fo. 68.* See *Barre.*

*Attaine* (*attainta*) cometh of the French, as you shall see in the word (*attainted*) But as it is a substantive, it is vsed for a writ that lyeth after iudgement, against a Iurie that hath giuen a false verdict in any court of record (be the action reall or personall) if the debt or damages surmount the summe of 40. shillings: what the forme of the writ is, and how



in vse it is extended, see *Fitz. na. br. fol. 105.* and the new booke of entries, *fol. 84. colum. 1.* The reason why it is so called, seemeth to be, because the partie that obtaineth it, endeouoreth thereby to touch, deprehend, or staine the Iurie with periurie, by whose verdict he is grieved. What the punishment of this periurie is, or of him that bringeth the writ against the Iurie, if he faile in his prooffe, see *Glanville lib. 2. cap. 19. Fitz. nat. br. fol. 109. K. L. & 110. A. B. C. D. &c.* the termes of the lawe, *verb. Attaint. Fortescue cap. 26. Smith de rep. Anglo. lib. 3. cap. 2. and anno 11. H. 7. cap. 21. & anno 23. H. 8. cap. 3. and others.* In what diuersitie of cases this writ is brought, see the *Register orig. in Indice.*

*Attainted (attinctus)* commeth of the French (*teindre. i. tingere:* the participle whereof is (*teint. i. tinctus,*) or else of (*attaindre. i. asssequi, attingere.*) It is vsed in our common lawe, particularly for such as are found guiltie of some crime or offence, and especially of felonie or treason. How be it a man is said to be attainted of disseisin. *Westm. 1. cap. 24. & 36. anno 3. Ed. 1.* And so it is taken in French likewise (as *estre attaint & vraycu en aucun cas*) is to be cast in any case. Which maketh me to thinke that it ra-

ther cometh from (*attaindre*) as we would say in english caught, ouertaken, or playnly deprehended. And *Britton ca. 75.* vseth the participle (*attaint*) in the sence that we say (*attained vnto*) A man is attainted by two meanes: by appearance or by proces. *Stawnf. pl. cor. fo. 44.* Attaynder by by apparence, is by confess. on, by battell, or by verdict. *Idem. fo. 122.* Confession whereof attaynt groweth, is double: one at the barre before the iudges, when the prisoner vpon his endictment read, being asked guilty or not guilty, answareth guilty, neuer putting himselfe vpon the verdict of the Iurie: the other is before the coroner in sanctuarie, where he vpon his confession was in former times constrained to abiure the Realme. which kinde also of the effect, is called attaynder by abiuration. *Idem. fo. 182.* Attaynder by battell is, when the party appealed by another, and chusing to tie the truth by combat rather then by Iurie, is vanquished. *Idem. fo. 44.* Attaynder by verdict is, when the prisoner at the barre answering to the endictment, not guilty: hath an enquest of life and death passing vpon him, and is by their verdict or doome pronounced guiltie. *Idem. fo. 108. & 192.* Attainder by processe (otherwise called attainder by

default, or attainder by outlagarie) is where a partie flieth, and is not found vntill he haue bene fine times called publikely in the countie, and at the last out-lawed vpon his default. *Idem. fol. 44.* I find by the same author. *fol. 108.* that he maketh a difference between attainder and conuiction, in these words: And note the diuerſitie betweene attainder and conuiction, &c. And with this agreeeth the Statute, *anno 34. & 35. H. 8. cap. 14. in ipſo principio*, and *anno 1. Ed. 6. cap. 12.* in these words: that then euery such offender being duly thereof convicted or attainted, by the lawes of this realme, &c. And againe, in these words: Euery woman that is, or shall fortune to be wife of the person so attainted, convicted, or outlawed, &c. To this you may likewise adde the stat. *anno 2. & 3. Edw. 6. cap. 33.* And I find by *Stawnf. pl. cor. fol. 66.* that a man by our ancient lawes, was said to be conuicted presently vpon the verdict (guiltie) but not to be attainted, vntill it appeared that he was no clerke: or being a clerke, and demanded of his ordinarie, could not purge himselfe. So that a man was not attainted vpon conuiction, except he were no Clerke: and, in one word, it appeareth, that attainder is larger then conuiction; conuiction being onely by the Iurie.

And attainder is not before iudgement, *Perkins Graunes. num. 27. 29.* Yet it appeareth by *Stawnf. fol. 9.* that conuiction is called attainder sometime. For there he saith, that the verdict of the Iurie doth either acquit or attaint a man: and so it is, *Westm. pr. cap. 14. anno 3. Ed. 1.* This ancient lawe touching the conuiction and purgation of Clerkes, is altered, by *anno 23. Eliz. cap. 2.* as you may farther reade in *Clergie.*

*Attainder (Attinētus)* though it be most vsed in matters of felonie and treason: yet is it likewise applied to inferior transgressions, as to disseisin, *Westm. 1. cap. 36. anno 3. Ed. 1.* and *Britton cap. 26.* See *Attaint*, and *Attainted.*

*Attendans (attendens)* cometh of the French (*attendre. i. demorari, opperiri, expectare, prestolari*.) it signifieth in our common law, one that oweth a dutie or seruice to another, or after a sort dependeth of another. For example, there is Lord, mesn, and tenent: the tenent holdeth of the mesn by a peny; the mesn holdeth ouer by two pence. The meane releaseth to the tenent all the right he hath in the land, and the tenent dyeth. His wife shall be endowed of the land, and she shall be attendant to the heire of the third part of the peny, and



not of the third part of the two pence. For she shall be endowed of the best possession of her husband. Another hath, *Kitchin. fol. 209.* in these words: where the wife is endowed by the gardian, she shal be attendant to the gardian, and to the heire at his full age: with whome agreeth *Perkins* also, in *Dover. 424.*

*Attorney* (*attornatus*) cometh of the French (*tourner. i. vertere*) as, *tourner son esprit à faire quelque chose, i. animum ad rem aliquam inclinare.*) Thence cometh the participle (*tourné. i. versus, conversus,*) and the Substantive (*tour. i. vices, vicissitudo*) as, *chacun à son tour, i. quilibet sua vice.*) It signifieth in our common lawe, one appointed by another man to do any thing in his steade, as much as (*procurator*) or (*syndicus*) in the ciuill lawe, *West. parte 1. Symbolayogr. lib. 2. sect. 559.* defineth it thus: Attorneys be such persons, as by the consent, commandement, or request, do take heed, see to, and take vpon them the charge of other mens busines in their absence, by whome they are commaunded or requested. And where it seemeth that in auncient time, those of authoritie in Courts, had it in their arbitrement, whether they would suffer men to appeare, or sue by any other then themselves, as is euident, by *Fitz. nat. br. fol. 25.*

in the writ. *Dedimus potestatem de attornato faciendo*, where it is shewed, that men were driuen to procure the kings writs or letters patents to appoint Attorneys for them: it is sithence provided by Statutes, that it should be lawfull so to do without any such circuit, as by the Statute. *anno 20. H. 3. cap. 10. anno 6. Ed. 1. cap. 8. anno 27. eiusdem. stat. 2. anno 12. Ed. 2. 1. anno 15. eiusdem. cap. unico. anno 7. Ric. 2. cap. 14. anno 7. H. 4. cap. 13. anno 3. H. 5. cap. 2. anno 15. H. 6. cap. 7. & anno 17. H. 7. cap. 2.* is to be proued. And you may see great diuerfitie of writs, in the table of the *Regi. origin.* wherein the king by his writ commaundeth the Iudges to admit of Attorneys. Wherby there grew at the last so many vnskilfull Attorneys, and so many mischiefes by them, that provision for restraining them was requisite. Wherefore *anno 4. H. 4. cap. 18.* it was ordained, that the Iustices should examine them, and displace the vnskilfull. And againe, *anno 33. H. 6. cap. 7.* that there should be but a certaine number of them in *Northfolke* and *Southfolke*. In what cases a man at this day may haue an Attorney, and in what not, see *Fitz. ubi supra.* Attorney is either generall or speciall: Attorney generall is he, that by generall authoritie is appointed to all our affaires

fares or suites : as the Atturney  
 generall of the king. *pl. cor. fol.*  
*152* which is as much as (*Procu-*  
*rator Cesaris*) was in the Romane  
 Empire. Atturney general of the  
 Duke. *Cromptons Iurisd. fol. 105.*  
 Atturney speciall or particular is  
 he, that is employed in one or  
 more causes particularly speci-  
 fied. Atturneys generall be made  
 after two sorts: either by the  
 kings letters patents before him  
 or the Lord Chancelour, or by  
 our appointment before Iustices  
 in eyre in open court, *Glanvile li.*  
*11. cap. pri. Britton. cap. 126.*  
 whome of this thing you may  
 reade more at large. There be al-  
 so in respect of the diuers courts,  
 Atturneys at large, and Attur-  
 neys special, belonging to this or  
 that court onely. The name is  
 borrowed of the Normanes, as  
 appeareth by the custumarie, *cap.*  
*65.* And I find the word (*attor-*  
*nati*) or as some reade (*tornati*)  
 in the same signification in the  
 title (*de statu regularium*) *ca. unico.*  
*§. Porro in sexto.*) where the  
 glosse saith, that *Attornati dicun-*  
*tur Procuratores apud acta constitu-*  
*ti.* Our old Latine word for this  
 seemeth to be (*responsalis*) *Bract.*  
*lib. 4. cap. 31. & lib. 5. parte 2.*  
*cap. 8.* and so it is in Scotland at  
 this day, but especially for the  
 Atturney of the defendant, as  
 (*prolocutor*) is for the perfewer.  
*Al. Skene de verb. significatione.*

*Responsalis*, as *Sigonius* witnesseth,  
 in his first booke *de regno Italie*,  
 was in auncient time, the title of  
 the Popes ambassadour, *pag.*  
*11.*

*Atturney of the court of wards*  
*and Lineries* (*Attornatus regis in*  
*curia Wardorum & Liberatuarum*)  
 is the third officer in that Court,  
 who must be a person learned in  
 the lawes of the land, being na-  
 med and assigned by the king.  
 At his admission into the office,  
 he taketh an oath before the  
 Master of the said court, well and  
 truly to serue the king, as his At-  
 turney in all courts, for and con-  
 cerning any mater or cause, that  
 toucheth the possessions and he-  
 reditaments limited to the suruey  
 and gouernement of this court,  
 and to procure the kings profite  
 thereof: truly to counsell the  
 king, and the Master of the Court,  
 in all things concerning the  
 same, to the best of his cunning,  
 witte, and power: and with all  
 speed and diligence from time to  
 time at the calling of the Master,  
 to endeavour himself for the hea-  
 ring and determination indiffe-  
 rently of such matters & causes,  
 as depend before the Master: not  
 to take any gift or reward in any  
 mater or cause depending in the  
 court, or else where, wherein the  
 king shall be partie, whereby the  
 king shall be hurt, hindred, or  
 disinherited: to do to his power,



wit, and cunning, all and euery thing that appertaineth to his office.

*Attorney of the Court of the Duchie of Lancaster*, (*Attornatus curie Ducatus Lancastrie*) is the second officer in that Court, and seemeth, for his skill in law, to be there placed as (*assessor*) to the Chancellor of that court, being for the most part, some honorable man, and chosen rather for some especiall trust reposed in him to deale betweene the king and his tenents, then for any great learning, as was v'uall with the Emperors of *Rome*, in the choice of their Magistrates.

*Attournment* (*aitornamentum*) commeth of the French (*tourner*. i. *vertere*) and in our common lawe, is an yeelding of the tenent to a new Lord, or acknowledgement of him to be his Lord. For otherwise he that buyeth or obtaineth any lands or tenements of another, which are in the occupation of a third, cannot get possession: yet see the statute, *an. 27. II. 8. cap. 16*. The words vsed in attournment are set downe in *Littleton*. I agree me to the graunt made to you, &c. But the more common attournment is to say: Sir, I attourn to you by force of the same graunt: or, I become your tenent, &c. or else deliuer vnto the grauntee a peny, halfe-peny, or farding, by way of at-

tournment, *Littleton lib. 3. cap. Attournment. 10.* whome you may reade more at large, and find that his definition proceedeth from more lawe then Logicke: because he setteth downe diuers other cases in the same chapter, whereto attournment appertaineth as properly as vnto this. But you may perceiue there, that attournment is the transposing of those duties that the tenent ought to his former Lord, vnto another, as to his Lord: and also, that attournment is either by word or by act, &c. Also attournment is voluntarie, or else compulsoe, by the writ tearmed *Per qua seruitia*, *Owld. nat. br. fol. 155* or sometime by distress. *Fitzb. nat. br. fol. 147*. Lastly, attournment may be made to the Lord himselfe or to his Steward in Court, *Kitchin. fol. 70*. And there is attournment in deede, and attournment in lawe. *Coke vol. 6. fo. 113. a*. Attournment in lawe, is an act, which though it be no expresse attournment, yet in intendment of law is all one.

(*Attornato faciendo vel recipiendo*) is a writ which a man owing suite to a countie, hundred, weapon take, or other court, and desiring to make an attorney, to appeare for him at the same court, whome he doubteth whether the Shyreue or bailiffe will admit or not for his Attourney there,

there, purchaseth, to commaund him to receiue such a man for his attourney, and admit his appearance by him. The forme and other circumstances whereof, see in *Fitzh. nat. br. fo* 156.

*Audiendo & terminando*, is a writ, but more properly tearmed a commission, directed to certaine persons, when as any great assembly, insurrectiō, or heinous demeanure or trespasse is committed in any place, for the appeasing, and punishment thereof. which you may read at large, in *Fitzh. nat. br. fo* 110. See also *oyer & terminer*.

*Audience court* (*Curia audientie Cantuariensis*) is a court belonging to the Archbishop of Canterburie, of equall authoritie with the Arches court, though inferior both in dignity and antiquitie. The originall of this court was, because the Archeb. of Canterbury heard many causes extra iudicially at home in his owne palace, in which, before he would finally determine any thing, he did vsually commit them to be discussed by certaine learned men in the ciuile & canon lawes, whome thereupon be termed his auditors. And so in time it grew to one especiall man, who at this day is called (*Causarum negotiorumq; audientia Cantuariensis auditor seu officialis*). And with this office hath heretofore com-

monly bene ioyned the Chancelership of the Archbishop, who medleth not in any point of contentious iurisdiction, that is, deciding of causes betweene party and party (except such as are ventilated *pro forma* onely, as the confirmation of bishops elections, or such like) but onely of office, and especially such as are *voluntaria iurisdictionis*, as the granting of the custody of the spiritualties, during the vacation of Bishopricks, Institutions to benefices, dispensing with banes of matrimonie, and such like. But this is now distinguished in person from the Audience. Of this Audience court, you may reade more in the booke, intituled *De antiquitate ecclesie Britannice historia*.

*Audita querela*, is a writ, that lieth against him, who hauing taken the bond called (Statute Merchant) of another, and craving or hauing obtained execution of the same at the Maior & Bayliffes hands, before whome it was entred, at the complaint of the partie who entred the same, vpon suggestion of some iust cause why execution should not be graunted as a release, or other exception. This writ is graunted by the Chanceler of England, vpon veiw of the exception suggested, to the Iustices of the common banke, or of



the Kings benche, willing them to graunt summons to the Shyreue of the countie, where the creditour is, for his appearance at a certain day before them. See more in *owld. nat. br. fo.* 66. and *Enxh. nat. br. fo.* 102.

*Auditour* (*auditor*) commeth of the French (*auditeur*) and in our lawe, signifieth an officer of the king, or some other great personage, which yearly by examining the accounts of all vnder officers accountable, maketh vp a generall booke, that sheweth the difference betweene their receipts or burden, and their allowances, commonly called (*allocations*): as namely, the auditours of the exchequer, take the accounts of those receiuers, which receiue the reuenues of the augmentation: as also of the Shyreuees, escheatours, collectors, and customers, and set them downe and perfect them. Him that will read more of this, I referre to the *Statut. anno. 33. H. 8. c. 33.*

*Auditours of the Prests*, are also officers in the exchequer, that doe take and make vp the great accounts of Ireland, Berwick, the mint, & of any mony imprested to any man.

*Auditour of the receipts*, is an officer of the exchequer, that fillet the Tellers bills, and maketh an entrie of them, and giveth to

the Lord Treasurer a certificate of the mony receiued the weeke before. He maketh also (*Debetours*) to every Teller, before they pay any mony, & taketh their accounts. He keepeth the blacke booke of the receipts, and the Treasurers key of the treasures: and seeth euery Tellers monies locked vp in the new treasury.

*Adventure* is a mischance, causing the death of a man without felony: as when he is sodenly drowned, or burnt, by any soden disease falling into the water or fire. *Britton. ca. 7.* where you may see, what it differeth from Misadventure. See *Misadventure*.

*Average* (*averagium*) by *M. Skenes opinion* (*verbo arage*) de *verborum significatione*, commeth of the word (*averia*.), i. a beast, and so consequently signifieth service which the tenant oweth to the Lord, by horse or cariage of horse. I haue heard others probably deriue it from the French (*euurage*) or (*euure. i. opus*). It seemeth with vs to haue two diuers significations; for the first, *Rastall. titulo Exposition of words.* maketh mention of the Kings averages, which I take to be the kings carriages by horse or cart. Then *anno. 32. H. 8. ca. 14.* and *anno. 1. Iacobi, ca. 32.* it is vsed for a certaine contribution that merchants and others doe every man pro-

ding freely by charter in this sort, cannot be impleaded, out of the same maner: and if they be, they may abate the writ, by pleading their tenure before or after answer made. Secondly, they be free of tolle for al things concerning their sustenāce & husbādry. Thirdly, they may not be ē-paneled w<sup>th</sup> any ēquest. Terms of the law. but more at large by *Fuzh. nat. br. fo. 14. d.* whome reade, as also *fo. 128. a. &c.* And as it appeareth by him. *codem. fo. 4 B.C.* these tenents held by the service of plowing the kings land, by plashing his hedges, or by suche like, toward the maintenance of the kings household; in which regard they had such liberties giuen them, wherein, to avoide disturbance, they may haue writs to such as take the duties of tolle in any market or feire; as likewise for immunitye of portage, passage, & such like. *Euzh. nat. br. f. 228. A. B. C. D.* by which author it also appeareth, that no lands be to be accompted auncient demeasū, but such as are holden in socage. *fo. 13. D. et. 14. B.C.* See *Monstraverunt*, and *Fitzh. fo. 14.* and *Desseado quie-ram de telonio. fo. 226.* Fleta maketh three tenures holding of the crowne: auncient demeasū, by escheate, & by purchase. *li. 1 ca. 20.* See *Demeane.*

*Auncient Demeasū arere (an-*

*quum dominicum a recto*) is that auncient demeasū, which the king grauntheth ouer to hold of a maner. *Kitchin. fo. 67. b.*

*Avoué (advocatus)* See *Advoué.* *Bruton* saith that *Avoué* is he, to whome the right of advowzen of any Church appertaineth, so that he may present thereunto in his owne name, and is called *avoué* for a difference from those, that sometime present in another mans name: as a gardiā that presenteth in the name of his warde, and for a difference also from them, which haue the lands wherunto an advowzen appertaineth, but onely for tearme of their liues, or of yeares, or by intrusion or desseisin. *ca. 92.*

*Avourie.* See *Advourie.*

*Avoir de pois*, is in true French (*avoir du poix. i. habere pondus, aut insti esse ponderis*) It signifieth in our common lawe, two things: first, a kinde of weight divers from that, which is called Troy weight containeing but 12. ounces to the pound, where as this containeth sixteene. And in this respect it may be probably conjectured, that it is so called, because it is of more weight then the other. Then also it signifieth such merchandize, as are wared by this weight, and not by Troy weight. as in the statute of *Tork. anno 9. Ed. 3. in præm. anno. 27. Ed. 3. Statuto 2 ca. 10. at anno. 2*



*Rich. 2. cap. 1. See Weights.*

*Auxilium ad filium militem faciendum, & filiam maritandam*, is a writ directed to the Shyreene of every countie, where the king or other lord hath any tenents, to leuye of them reasonable ayde toward the knighting of his son, and the mariage of his daughter. See *Ayde*, and *Fitz. nat. br. fol. 82.*

## B

**B**achelor (*Bachalaureus*) cometh of the French (*Bachelier. i. tyro*) and thereupon I thinke, those that be called Bachelers of the Companies in London, be such of each company, as be springing toward the estate of those that be employed in Councel, but as yet are inferiours. For every company of the twelve, consisteth of a Master, two Wardens, the Liuerie, which are assistants in matter of Councell, or at the least, such as the Assistants be chosen out of, and the Bachelers, which are yet but in expectation of dignitie among them, and haue their function onely in attendance vpon the Master and Wardens. I haue read in an old monument, this word *Bachelor*, attributed to the Lord Admirall of England, if he be vnder a Baron, in French words to this effect: and it is to weet, that when the Admirall rideth to assemble a shippe of warre, or other, for

the businesse and affaires of the Realme, if he be a Bachelor, he shall take for his day wages, 4. s. sterling: if he be an Earle or Baron, he shall take wages after the rate of his estate and degree. This word is vsed, *anno 13. R. 2. stat. 2. cap. 1.* & signifieth as much as Bachelor Knight doth, *anno 3. Ed. 4. cap. 5.* that is, a simple Knight, not a Knight baneret. See *Baneret*. Touching the farther etymologie of this word, *Bachalarii*, teste *Renano*, *à bacillo nominati sunt, quia primi studii auctoritatem, quæ per exhibitionem baculi concedebatur, iam consecuti fuissent. Vt fuerit velut quoddam mancipationis signum in huiusmodi aliquod studium baculi tractatio.* *Alciat* writeth the word (*baccalaurei, eoque dicti visos à baccalaurea nomen sumpsisse in l. cui precipua § 7. π. de verbo. significat.*

*Backberond* is a Saxon word, and almost English at this day, signifying as much as bearing vpon the backe, or about a man. *Bratton* useth it for a signe or circumstance of manifest theft, which the Civilians call, *furtum manifestum*. For dividing (*furtum, in manifestum, & non manifestum*) he defineth (*furtum manifestum*) in this sort: *Furtum verò manifestum est, ubi latro deprehensus est seiscitus de aliquo latrocinio: sc. haud habens & backberend, & insecutus fuerit per aliquem cuius res illa fuerit. l. 1. tract.*

*tract. 2. cap. 32. Master Manwood* in the second part of his forest lawes, noteth it for one of the 4. circumstances or cases, wherein a Forester may arrest the bodie of an offender against vert or venison in the Forest. For by the assise of the Forest of Lancaster (saith he) taken with the maner is, when one is found in the kings Forest in any of these foure degrees: *sc.* stable stand, dogge drawe, backe beare, and bloudie hand. In which place you may find all these interpreted.

*Badger*, cometh of the French (*bagage*, i. *sarcina*, *impedimentū*.) It signifieth with vs, one that buyeth corne or victuals in one place, and carieth it into another. See *Cromptons* Iustice of peace, fol. 69. & 70.

*Baye* or *penne* is a pond head made vp of a great heith, to keep in a great quantitie or store of water, so that the wheelles of the fornice or hammer belonging to an Iron mill, may stand vnder them, and be driuen by the water comming out of them by a passage or flud-gate (called the penstocke) and falling vpon the said wheelles. This word is mentioned in the statute, *anno 27. El. cap. 19.*

*Bayle* (*Ballium*, *plexina*, *manu-captio*) cometh of the French (*bailler*, i. *attribuere*, *tradere*, *tribuere*.) It is vsed in our common

lawe, properly for the freeing or setting at liberty of one arrested or imprisoned vpon action either ciuill or criminall, vnder suretie taken for his apparence at a day and place certainly assigned. *Bracton lib. 3. tract. 2. cap. 8. num. 8. & 9.* The reason why it is called *Bayle*, is, because by this meanes the party restrained, is deliuered into the hands of those that bind themselves for his forth-comming. There is both common and speciall baile. Common baile, is in actions of small preiudice, or slight prooffe: being called common, because any sureties in that case are taken: whereas vpon causes of greater weight or apparent specialtie, speciall baile or suretie must bee taken: as subsidie men at the least, and they according to the value. *Master Manwood* in his first part of Forest lawes, pag. 167 maketh a great difference betweene bayle and mainprise, in these words: and note that there is a great diuersitie betweene bayle and mainprise. For he that is mainprised, is alwaies said to be at large, and to go at his own libertie out of ward, after that he is let to mainprise, vntill the day of his appearance, by reason of the said common summons or otherwise. But otherwise it is, where a man is let to bayle, by foure or two men, by the Lord



chiefe Iustice in eyre of the Forest, vntill a certaine day. For there he is alwaies accompted by the lawe, to be in their ward and custodie for the time. And they may, if they wil, keepe him in ward or in prison at that time, or otherwise at their will. So that he which is so bailed, shall not be said, by the lawe, to be at large, or at his owne libertie. See *Lamberds eironarcha*, lib. 3. cap. 2. pag. 330. Bayle, is also a certaine limit within the forest, accordingly as the Forest is divided into the charges of seuerall Foresters. *Crompton* in the oath of the bow-bearer, fol. 201. See *Maynprise*.

Baylife (*balliuus*) commeth of the French (*bailif*, i. *dioceses, nomarcha, praefectus Provincia*) and as the name, so the office it selfe, in auncient time, was very answerable to that of *France* and *Normandie*: for as in *France* there be sixteene Parliaments, (*Lupinus de Magistratibus Francorum*, lib. 2. cap. *Parlamentum*) which be high courts, whence lyeth no appeale: & within the precincts of those seuerall parts of that kingdome, that belong to each Parliament, there be seuerall provinces, vnto which, within themselves, iustice is ministred by certaine officers called bayliffes: so in *England* we see many seuerall counties or shires, within the

which iustice hath bene ministred to the inhabitants of each countie, by the officer whome we now call Shyreue or Vi-count (one name descending fro the Saxons, the other from the Normans.) And though I cannot expressly proue, that this Shyreue was cuer called a bailiffe: yet is it probable, that that was one of his names likewise, because the countie is called many times (*balliuus*) that is a Bayliwicke: as namely, in the returne of a writ with (*non est inuentus*) he writeth thus: (*A. S. infra scriptus, non est inuentus in balliuia mea, post receptionem huius brevis*) *Kitchin retourra breuium*. fol. 258. and againe in *Bracton*, lib. 3. tract. 2. cap. 33. num. 3. and anno 5. *Elizabeth*. cap. 23. and anno 14. *Ed. 3. stat. 1. cap. 6*. And I thinke the word (*bailife*) vsed *cap. 28. of Magna charta*, compriseth as well Shyreuees, as bailiffes of hundreds: as also anno 14. *Ed. 3. stat. 1. cap. 9*. But is the realme is divided into Counties: so euery Countie is againe divided into hundreds, within the which it is manifest, that in auncient times, the kings subjects had iustice ministred vnto them, by the seuerall officers of euery hundred, which were called bailiffes, as those officers were and are in *France* and *Normandie*, being chiefe officers of iustice within euery

euery Prouince. *Luparus de Magistratibus Francorum, lib. 2. cap. Balui.* and the grand customary of *Normandie, cap. 1.* And that this is true among many others, I bring *Erastus* for my witnes, *li. 3. tract. 2. cap. 34. n. 5.* where it appeareth that bailiffes of hundreds might hold p'ce of appeale and approuers. But si-  
thence that time, these hundred courts (certain franchises excepted) are by the statute *anno 14. Ed. 3. stat. 1. cap. 9.* swallowed into the Countie courts, as you may reade in countie and hundred. And the Bailiffes name & office is growne into such contempt, at the least, these bailiffes of hundreds, that they are now but bare messengers and mandatories within their liberties to serue writs, and such like base offices: their office consistin in 3. points onely, which see in *Cromptons* Iustice of peace, *fol. 49. a.* Yet is the name still in good esteeme some other way. For the chiefe Magistrates in diuers townes corporate be called Bailiffes, as in *Ipsenitch, Yarmouth, Colchester*, and such like. And againe, there be certaine, to whom the kings castels be committed, which are called Bailifs, as the Bailiffe of *Dover* castell.

These ordinary bayliffes are of two sorts: baylifs errant, and baylifs of franchises. Baylifes er-

rant (*balliui itinerantes*) be those which the *Shyreue* maketh, and appointeth to goe hither & thither in the countie to serue writs, to summon the countie, sessions, assises, and such like. Baylifs of franchises (*balliui franchisearum aut libertarum*) be those, that are appointed by euery lord within his libertie, to doe such offices within his precincts, as the bayliffe errant doth at large in the countie. Of these read *S. Thomas Smith. de repub. Anglo. li. 2. ca. 16.* There be also baylifes of the forest. *Mannood parte 1. pa. 113.* There be likewise baylifes of husbandrie, belonging to priuate men of great substance, who seeme to be so called, bycause they disp'ose of the vnder seruants euery man to his labour and taske, check them for misdoing their buisenes, gather the profits of their lord and master, and deliuer an accompt for the same at the yeares end, or otherwise as it shall be called for. The word bayliffe or *baluius*, is by *Rebuffus* deriued from (*Baala. dominus, quia ballui dominatur suis subditis, quasi eorum magister & domini. Rebuff. in constitut. regins. de senten. executionis. art. 7. gl. f. 1.*) The office or dutie of a bayliffe of a maner or household (which in auncient time seemeth to haue beene all one) *Fleta* well describeth, *li. 2. ca. 72. & 73.* This word



is also vsed in the canon lawe. *ea. dilecto. de sentent. excom. in sexto. & ea. pri. de poenis in clement.* wher the glossographer saith, it is a French word, signifying as much as (*propositus*) & (*balia*) or (*balivatus*) is vsed among our later interpreters of the civile & canon law, for *provincia*, as *balliva* heere in England, is vsed for a countie or shire.

*Balkers* See *Condors*.

*Ballivo amovēdo*, is a writ to remooue a baylife out of his office, for want of sufficient liuing with in his bayliwick. *Reg. orig. f. 178.*

*Bane*, seemeth to signifie the destruction or ouerthrow of any thing. *Bracton. li. 2. tracta. 2. ca. 1. nu. 1.* as he which is the cause of of another mans drowning, is said there to be *la bane. i. malefactor*. In that *Bracton*, in the place aforesaid, prefixeth a French article to this word, it should seeme by his opinion, that the word is French, but I finde it not in any French writer that euer I read.

*Baneret* (*baneretus*) in *M. Skenes* opinion, seemeth to be compounded of (*baner*) and (*rent*) whome reade more at large of this, *verbo. Baneret. de verbo. signi.* but our *M. Camden*, rather draweth the word from the German (*bannerheires. Brittan. pa. 109. in meo libro. S. Thomas Smith de repub. Anglo. li. 1. ca. 18.* saith, that baneret is a Knight made in the

field, with the ceremonie of cutting of the point of his standard, and making it, as it were, a banner. And they being before bachelers, are now of greater degree, allowed to display their armes in a baner in the Kings armie, as barons doe. *M. Camden ubi supra*, hath these words of this matter, *Baneretti, cum vassalorum nomen iam desierat, a baronibus secundi erant: quibus indium nomen a vexillo. Concessum illis erat militaris virtutis ergo, quadrato vexillo (perinde ac barones) uti. unde & equites vexillarii a nonnullis vocantur, &c.* Of creating a knight baneret, you may read farder, in *M. Segar. Norrey* his booke. *li. 2. ca. 10.* That they be next to barons in dignitie, it appeareth by the *statut. an. 14. R. 2. c. 11.* & by *anno. 5. R. 2. stat. 2. ca. 4.* it may be probably coniectured, that they were aunciently called by summons to the court of parliament. and *anno. 13. R. 2. stat. 2. ca. 1.* we finde, that a baneret for praying a pardon for a murderer, contrarie to that *statut*, is subiect to all one punishment with a baron. *Iohan: Gregorius Tholosanus. li. 6. ca. 10. suis synagmatis. nu. 9.* hath these words: *In Gallia sunt due species affines nobilium & feudorum, quas dicunt de benneretz & barons. Benneretus iure sua dignitatis, antequam talis dici mereatur, nobilis esse debet genere, in quarto gradu, possi-*  
dens

dens in ditione decem scutarios bachalarios armorū: id est, decem vasallos habens sufficiens patrimonium, quo possit secum ducere quatuor aut quinque nobiles comites continuos, cum equitibus duodecim aut sexdecim. Fit autem Benneretus, cum princeps huiusmodi persona concedit vexilli ius, & ex vexillo peditum in acie, vel extra, die solenni, sacris peractis, admit acumina. Vocant la queve de pennon, si q̄, labarum, id est, equitum vexillum, vocant cornette eumq̄, equitem facit, si iam non est. Quod si ditior his fiat benneretus, & habet unam benneretam, aut sex equites bachalarios, qui possideant singuli in censum sexcentas libras ex eius ditione seu feudo, tunc possunt ex licentia principis, baronis nomen sibi adsciscere.

Bans (*bannus vel bannum*) significeth a publike notice giuen of any thing. The word is ordinarie among the feudists, and growne from them to other vses: as to that which we heere in England call a proclamation, whereby any thing is publikely commaunded or forbidden. *Vincentius de Franc̄is. de sc̄is. § 21. & 360.* *Hotoman* verbo *bannus*, in verbis feudilibus saith that there is both (*bānus*) and (*bannum*) and that they signifie two diuers things. His words are these: *Bannus sine bannum duo significat: Edictū, quā dīo vasalli equis armisq; instructi, ad comitatum adesse debent: & sanctionē,*

*hoc est, multam edicto non parentis.* which he confirmeth by diuers authorities. This word (*bans*) we vse heere in England, especially in the publishing of matrimoniall contracts in the church, before mariage, to the end that if any man can say against the intētion of the parties, either in respect of kindred or otherwise, they may take their exception in time. And in the canon lawe, *Banna sunt proclamationes sponsi & sponse in ecclesijs fieri solut. ca. 27. extra de sponsal. & ca. vlt. qui matrimonium accus. pos. & ca. vlt. de clan. despons.* Yet our word (*banning*) seemeth to come thence, being nothing but an exclamation of another. Onely *Bracton*, once maketh mention of *bannus regis*, for a proclamation, or silence made by the crier, before the congresse of the champions in a combate. *li. 3 tracta. 2. ca. 21.*

*Bank (bancus)* commeth of the French (*banque. i. mensa*) In our common lawe, it is most vsually taken for a seate or bench of iudgement, as *bank leroy* the kings bench. *bank de comon plees*: the bench of comon plees, or the common bench. *Kitchin. fo. 102.* called also in latine *bancus regius*, & *bancus communium placitorum*. *Crompt. iuris fo. 67. & 91.* *Camden* in his *Britannia. pa. 112. & 113. in meo.* calleth them also *bancum regium* & *bancum communem*.

See



See *frank bank.*

*Bankrupt*, (alias *bankroete*). cometh of the french (*banque route*) and (*faire banqueroute*) with the French, is as much as (*foro cedere*, *solum vetero*) with the Romanes. The composition of the French word I take to be this (*banque*. i. *mensa*) & (*route*. i. *vestigium*) metaphorically taken from the signe left in the earth, of a table once fastened vnto it, & now taken away. So that the original seemeth to haue sprung frō those Romain (*mensary*) which (as appeareth by many wrighters) had their (*tabernas* & *mensas*) in certaine publique places, whereof, when they were disposed to flie, & deceiue men that had put them in trust with their monies, they left but the signes or carcasses behinde them. I know that others of good learning (and *M. Skene* for one) bring this (*a bancrupto*) but the French word worketh in me this other opinion, for after their sence, the French should rather be *banque rompu*. Bankrupt with vs signifieth him or his act, that hauing gotton other mens goods into his hands, hideth him selfe in places vnknowne, or in his owne priuate house, not minding to pay or restore to his creditours their duties. *anno. 34. H. 8. ca. 4.* where the french phrase (*faire banque route*) is translated to the word, to make bankrupt.

A bankrupt, *anno. 1. Iacobi. ca. 15.* is thus described: All and euery such person and persons, vsing, or that shall vse the trade of merchandise, by way of bargaining, exchange, battrey, cheuisance, or otherwise in grosse, or by seeking his, her, or their trade of liuing by buying and selling, and being a subiect borne of this Realme, or any the kings dominions, or denizen, who at any time sithence the first day of this present parliament, or at any time hereafter, shall depart the Realme, or begin to keepe his or her house or houses, or otherwise to absent him or her selfe, or take sanctuary, or suffer him or her selfe willingly to be arrested for any debt or other thing, not growne or due for mony deliuered, wares sould, or any other iust or lawful cause, or good consideration or purposes, or hath or will suffer him or her selfe to be outlawed, or yeld him or her selfe to prison, or willingly or fraudulently hath or shall procure him or her selfe to be arrested, or his or her goods, money, or chatels to be attached or sequestred, or depart from his or her dwelling house, or make, or cause to be made any fraudulent graūt or conueyance of his, her, or their lands, tenements, goods or chatels, to the intent or whereby his, her, or their creditours being subiects borne, as afore-

forſaide, ſhall or may be defeated or delayed for the recovery of their iuſt and true debt: or being arreſted for debt, ſhall after his or her arreſt, lye in priſon fixe monethes or more, vpon that arreſt, or any other arreſt or detention in priſon for debt, and lye in priſon fixe monethes vpon ſuch arreſt or detention, ſhall be accompted and adiudged a bankrupt to all intents and purpoſes.

*Baniſhment (exilium, abiuratio)* commeth of the French (*banniſſement*) and hath a ſignification knowne to euery man. But there be two kinds of baniſhments in *England*: one voluntarie and vpon oath, whereof you may reade (*Abiuration*): the other vpon compulſion for ſome offence or crime: as if a lay-man ſuccor him that, hauing taken ſanctuarie for an offence, obſtinately refuſeth to abiure the realme, he ſhall looſe his life and member: if a Clerke do ſo, he ſhall be baniſhed, *Scamſ pl. cor. fol. 117.* This puniſhment is alſo of our moderne *Civilians* called (*bannimētum*) which was aunciently tearmed (*deportatio*) if it were perpetuall, or (*relegatio in inſulam*), if for a time. *Vincenſius de Franchis. Petrus de Belluga in ſuo ſpeculo. fol. 125. num. 4.*

*Barbaries (Oxyantha)* is a thornie ſhrub knowne to moſt

men to beare a bery or fruite of a ſharpe taſte. Theſe berries (as alſo the leaues of the ſaid tree) be medicinable, as *Gerard* in his herball ſheweth, *lib. 3. cap. 21.* You find them mentioned among drugs to be garbled, *anno 1. Iacob. cap. 19.*

*Bard, alias, Beard.* See *Clack.*

*Bargaine and ſale*, as it ſeemeth by *West. part. 1. ſymb. lib. 2. ſect. 436.* is properly a contract made of maners, lands, tenements, hereditaments, and other things, transferring the proper tie thereof from the bargainer to the barganee. But the author of the new termes of lawe addeth, that it ought to be for money: ſaying farther, that this is a good contract for land, &c. and that ſee-ſimple paſſeth thereby, though it be not ſaid in the deed (To haue and to hold the land to him and to his heyres,) and though there be no luerie and ſeiſin made by the ſeller, ſo it be by deed indented, ſealed, and enrolled, either in the Countie where the land lyeth, or within one of the kings courts of Records at *Westmiſter*, within fixe moneths after the date of the deed indented, *anno 27. H. 8. cap. 16.*

*Barkarie (Barkaria)* is a heath houſe. New booke of Entries, *titulo. Aſſiſe corp. poli. 2.* Some call it a Tanne houſe.



*Baron* (*Baro*) is a French word, and hath diuers significations here in *England*. First, it is taken for a degree of Nobilitie next vnto a Vicount. *Brailton. lib. 1. cap. 8. num. 4.* where he saith, they be called *Barones, quasi robur belli*. And in this signification it is borrowed from other nations, with whom *Baronia* be as much as *Provincie*. *Petrus Belluga in speculo princip. fol. 119.* So *Barones* be such, as haue the government of Prouinces, as their fee holden of the king: some hauing greater, some lesser authoritie within their territories, as appeareth by *Vincentius de Franchis* in diuers of his descensions, and others. Yet it may probably be thought, that of old times here in *England* all they were called Barons that had such Seigniories, as we now call court-barons, as they be at this day called *Seigneurs* in *France*, that haue any such manor or lordship. Yea, I haue heard by men very learned in our Antiquities, that neere after the conquest, all such came to the Parliament, and sate as Nobles in the vpper house. But when by experience it appeared, that the Parliament was too much pestered with such multitudes: it grew to a custome, that none shold come but such, as the king, for their extraordinary wisdom or qualitie, thought good to call by writ;

which writ ranne (*hac vice tantum*) After that againe men seeing this estate of Nobilitie to be but casuall, and to depend meerly vpon the Princes pleasure, they sought a more certain hold, and obtained of the King, letters patents of this dignitie to them and their heyres male. And these were called Barons by letters patents or by creation: whose posterity, be now by inheritance and true descent of Nobilitie, those Barons that be called Lords of the Parliament: of which kind the king may create more at his pleasure. It is thought neuerthelesse, that there are yet Barons by writ, as wel as Barons by letters patents, and that they may be discerned by their titles: because the Barons by writ are those, that to the title of *Lord* haue their owne surnames annexed, as *Compton*, *North*, *Norice*, &c. whereas the Barons by letters patents, are named by their Baronies. These Barons which were first by writ, may now iustly also be called Barons by prescription, for that they haue continued Barons in themselves and their auncestor time, beyond the memorie of man. The originall of Barons by writ *Master Camden* in his *Britannia* pag. 109. in *meo.* referreth to *Henry the third*: Barons by letters patents or creation, (as I haue heard among

our Antiquaries) were first created about the dayes of *Henry* the sixth: the maner of whose creation reade in *Master Stowes Annales*, pag. 1121. Of all these you may also reade *Master Ferrus* glorie of Generositie, pa. 125 & 126. And see *M. Skene de ver. signif. verb. Baro.* with *Sir Thomas Smith*, lib. 1. de rep. Anglor. cap. 17. who saith, that none in England is created Baron, except he can dispend a thousand pound by yeare, or a thousand markes at the least. To these former, *Master Seager* (by office) *Norrey*, lib. 4. cap. 13. of *Honour ciuill and militarie*, addeth a third kind of Baron, calling them barons by tenure, and those be the Bishops of the land: all which by vertue of baronies annexed to their bishoprickes, haue alwaies had place in the vpper house of Parliament, and are tearmed by the name of Lords spirituall.

Baron in the next significatiō is an Officer: as barons of the Exchequer be to the king: of which the principall is called Lord chiefe Baron (*capitalis Baro*) and the three other (for so many there be) are his assistants in causes of iustice, betweene the king and his subiects, touching causes appertaining to the Exchequer.

The Lord chiefe Baron at this day, is the chiefe Iudge of the

court, and in matter of lawe, information, and plea, answereth the barre, and giueth order for iudgment thereuppon. He alone in the terme time doth sit vpon *Nisi prius*, that come out of the Kings Remembrancers office, or out of the office of the clerke of of the please, which cannot be dispatched in the mornings for want of time. He taketh recognisances for the Kings debts, for appearances, and obseruing of orders. He taketh the presentation of all the officers in court vnder himselfe, and of the Mayor of London, and seeth the Kings Remembrancer to giue them their oathes. He taketh the declaration of certaine receiuers accompts of the lands of the late augmentation, made before him by the Auditors of the shires. He giueth the two parcel makers places by vertue of his office.

The second Baron in the absence of the Lord chiefe baron, answereth the barre in matters aforesaid: he also taketh recognisances for the kings debts, appearances, and obseruing of orders. He giueth yearely the oath to the late Maior and escheatour of London for the true account of the profits of his office. He taketh a declaration of certaine receyuers accompts. He also examineth the letters and summes of such Shyreclerkes foraine ac-



compts, as also the accompts of Escheatours and Collectours of Subsidies and Fifteens, as are brought vnto him by the auditors of the Court.

The third Baron, in the absence of the other two, answereth the barre in matters aforesaide, he also taketh recognisances, as aforesaide. He giueth yerely the oath of the late Mayor and gawger of *London* for his true accopting. He also taketh a declaration of certaine receiuers accompts; and examineth the letters and sumes of such of the former accountants, as are brought vnto him.

The fourth barons is alwaies a coursetour of the court, and hath bene chosen of some one of the clerks in the remembrancers offices, or of the clerke of the pipes office. He at the daies of prefixion, taketh oath of al high shyreues and their vnder shyreues, and of all escheatours, baylifs, and other accountants, for their true accounting. He taketh the oath of al collectours, controllers, surueyours and serchers of the custome houses, that they haue made true entrances in their bookes. He appoisseth all shyreues vpon their summons of the pipe in open court. He informeth the rest of the Barons, of the course of the court in any mater that concerneth the kings prerogatiue. He likewise, as the other Barons, taketh the de-

claration of certaine receiuers accompts; and examineth the letters and summes of such of the former accountants, as are brought vnto him.

These barons of the exchequer, are auncient officers: for I finde them named, *westm. 2. ca. 11. anno. 13. Ed. 1.* and they be called barons, because barons of the realme were wont to be employed in that office. *Fleta. li. 2. ca. 24. S. Thomas Smuh* saith of them, that their office is to looke to the accompts of the Prince: and to that end they haue auditors vnder them: as, also to descide all causes, appertaining to the Kings profits, comming into the exchequer by any meanes. This is in part also proued, by the *statut anno. 20. Ed. 3. ca. 2. & anno. 27. eiusdem. stat. 2. ca. 18. & anno. 5. R. 2. stat. 1. ca. 9. & 12. & anno. 14. eiusdem. ca. 11.* And hereupon they be of late, men learned in the common lawe of the realme: whereas in auncient times, they were others: *viz. maiores & discretiores in regno. siue de clero essent, siue de curia.* Ockam in his *lucubrations de fisci regy ratione.* Horn in his *mirrour of Iustices* saith, that barons were wont to be two, and they *Knights. ca. De la place del Eschequer.*

Then be there in this signification, Barons of the Cinque portes. *anno. 31. Ed. 3. stat. 2. ca. 2.*

et anno. 33. H 8. ca. 10. which are two of euery of the seven towns, *Hastings, Winchelsey, Ry, Rumney, Huhe, Dover, & Sandriche*, that haue places in the lower house of Parliament. *Cromptons iurisd. fo. 28.* Baron in the the third signification, is vsed for the husband in relation to his wife: which is so ordinary in all our lawe writers, that wright in french, as it were superfluous to confirme it by any one.

*Baronet.* I reade this word, *anno. 13. R. 2. stat. 2. ca. 1.* but I should it falsely printed for *Baronet*, or els to signifie all one with it.

*Baronye (baronia, baronagium)* is the fee of a baron. In which accompt are not only the fees of temporall Barons, but of Bishops also: who haue two respects, one, as they are spirituall men, without possessions, as was the tribe of Levy among the Israelites, being susteined by the only first frutes and tenthes of the other tribes. *Iosue. ca. 13. versue. 14.* The other respect they haue, groweth from the bountie of our english Kings, whereby they haue baronies at the least, & are thereby Barons or Lords of the Parliament. This baronie (as *Bracton* saith, *li. 2. ca. 24.*) is a right indiuisible: and therefore if an inheritance be to be divided among coparceners: though some capitall messuages may be

divided: yet, *si capitale messuagium sit caput Comitatus, vel caput Baronie*, he saith they may not be parcelled, The reason is, *ne sic caput per plures particul as dividatur, & plura iura comitatum & baroniarum deveniant adnihilum: per quod deficiat Regnum, quod ex Comitibus & Baronys dicitur esse constitutum.*

*Barre (barra)* commeth of the French (*barre*) or *barriere* (i.e. *repagulum, obex, uetus*) It is vsed in our common law, for a peremptory exception against a demand or plaint: and is by the author of the Tennes of law, defined to be a plee brought by the defendant in an action, that destroyeth the action of the plaintiffe for ever. It is divided into a barre to common intent, and a barre speciall. A barre to a common intentment, is an ordinarie or generall barre, that ordinarily disableth the declaration or plee of the plaintiffe: a barre speciall is that, which is more then ordinarie, & falleth out in the case in hand or question, vpon some speciall circumstance of the fact. *Plenden. casu Colthirist. fo. 26. a. b.* For example, an executor being sued for his testators debt, pleadeth that he had no goods left in his hands, at the day when the writ was purchased or taken out against him. This is a good barre to common intentment, or (*prima*



*ma facie*) But yet the case may so fall out, that more goods might come to his hands thence that time: which if the plaintiffe can shew by way of replication, then excep the haue a more especiall plee or barre to alleadge, he is to be condemned in the action. See also *Plowden* in the case afore named. *fo. 28. a. b.* and *Brooke. titulo. Barre. nu. 101. & Kitchin. fo. 215.* Barre also in the same significati- on, is devided into barre materi- all, and barre at large. *Kitchin. fo. 68.* A barre materiall (as it see- meth) may otherwise be called a barre speciall: as when one in the stoppe of the plaintiffes acti- on, pleadeth some particular mater , as a descent from him that was the vndoubted owner, a feofment made by the aunce- ster of the plaintiffe, or such like. A barre at large is, when the te- nent or defendand by way of ex- ception , doth not traverse the plaintifes title by pleading *not guilty* , nor confesse and a- void it, but onely maketh to him- selfe a title in his barre. As if in an Assise of *novel disseisin*, the tenent pleade a feofment of a straunger vnto him, and giues but a colour onely to the plaintiffe. Of this there is an apt example to be found. *5. H. 7. fo. 29.*

*Barre*, is also in regarde of the effect, diuided into *barre perpe- tuall* & *barre pro tempore*. *Perpetu-*

*all* is that, which overthroweth the actiō for euer. *Barre pro tem- pore* is that, which is good for the present, and may faile heere- after: looke an example or two in *Broke titulo. Barre. nu. 23.* where he saith, that to plead (*plene admi- nistrant*) is good , vntill it may appeare, that more goods come to the executors hands after- ward, which also holdeth for an heire, that in an action of his aun- cesters debt pleadeth (*rien per des- cēt.*) This word is also vsed for a materiall *bar*: as the place where Sergeants or Coucelers stand to pleade causes in courte , or pri- soners to aunswere to their en- dictments. Of which our comon lawyers, that be lycēced to plead, in ether contries called *licenti- ti* are termed *barristers. anno. 24. H. 8. ca. 24.*

*Barrator* (*barrectator*) commeth from the French (*barat. i. astutia*) and is neere the French it selfe in significatiō. For (*barateur*) in that tong betokneth a deceiver: and a barator in our common law, is a common wrangler, that setteth men at ods, and is himselfe never quiet, but at brawle with one or other . To this effect you may read *M. Lamberds eirenarchap. 342.* who saith likewise, that *bar- rector* ( for so he writeth is) may seeme to come from the latine (*baratro*) or (*balatro*) that is, a vic- knaue or vinthrift, and (by a me-

raper) a spot in a cōmon wealth  
 See the statute of *chemperty. an.*  
*33. Ed. 1. stat. 1. ca. unico. and West.*  
*1. ca. 3. 2. anno. 3. Ed. 1. M. Skene de*  
*verb. signif. verbo barratrie*, saith  
 that barratours be Symonitis cal-  
 led of the Italian word (*barrat-*  
*aria*) signifying corruption or  
 briberie in a Iudge giuing a  
 false sentence for mony: whome  
 you may read more at large: as  
 also *Horrensus Cavalcanus*, in his  
*tractat de brachio regio. parte. 5. nu.*  
*6.* whose words are: *Barataria*  
*erò dicitur, quando Index aliquid*  
*est indebitum, ut iustitiam faciat.*  
 Who also *nu. 195. partis 5.* saith  
*us: barraterii appellatur, qui prae-*  
*torum nimis frequentat.* And in ano-  
 ther place of the same worke. *Bar-*  
*aria dicitur, quia fit quoddam bar-*  
*trum. i. commutatio pecuniae cum*  
*stia, &c.* See also *Egidius*  
*officiis in practica criminali. titulo*  
*de officialibus corrupt. &c. nu. 2. &*  
*Baratariam committunt, Iudices,*  
*si iusticiā auro veniunt. Paris Pu-*  
*ola. de syndicatu. verbo Barataria.*  
*2. 217.*

*Barre fee*, is a fee of 20 s. that  
 every prisoner acquite. of felo-  
 nie payeth to the gaoler. *Crompt.*  
*justice of peace. fo. 158. b.*

*Burrell*, is a measure of wine,  
 ale, &c. containing the 8. parte  
 of a tonne, the 4. of a pipe, and  
 the second of a hogshead, that  
 is 31. gallons and a halfe. *anno. 1.*  
*3. ca. 13.* But this vessel seemeth

not to containe any certaine  
 quantitie, but differeth accor-  
 ding to the liquor, for a barrell  
 of beere containeth 36. gallons,  
 the Kilderkin, 18. and the firkin,  
 9. a barrell of ale 23. gallons. the  
 kilderkin 16. and the firkin. 8.  
 gallons. *anno. 23. H. 8. ca. 4.*

*Barriers*, cometh of the  
 French (*barres*) and signifieth  
 with vs that which the French  
 men call (*ieu de barres. i. palastrā.*)  
 a martial sport or exercise of mē,  
 armed and fighting together  
 with short swords, within certain  
 limits or lists, whereby they are  
 severed from the beholders.

*Barter*, may seeme to come of  
 the French (*barater. i. circumveni-*  
*re.*) It signifieth in our statutes, ex-  
 change of wares with wares. *an.*  
*1. R. 3. ca. 9.* & so bartry the sub-  
 stantive. *anno. 13. Eliza. ca. 7.* The  
 reason may be, because they that  
 choppe and change in this ma-  
 ner, doe what they can for the  
 most part, one to over-reach the  
 other. See *barratour*.

*Base estate*, is in true French  
 (*basestat*) It signifieth in our cō-  
 mon law, that estate which base  
 tenants have in their lands. Base  
 tenants be they (as *M. Lambert*  
 saith in his explica. of Saxō words.  
*verbo Paganus*, which do to their  
 lords villenous service. The au-  
 thor of the termes of law in his  
 Tractat of old termes, saith that  
 to hold in fee base, is to hold at  
 the



the will of the lord. *Kitchin. fo. 41.* seemeth to make base tenure and franck to be contraries: where it appeareth, that he putteth copy holders in the number of base tenants. And out of these, I thinke, that it may be probably coniectured, that everie base tenant holdeth at the will of the lord, but yet, that there is a difference betweene a base estate, and and villenage, which *Fitzh.* in his *nat. br. fo. 12. B. C.* seemeth to confound. For the aboue named author of the termes of law saith in the place before cited, that to hold in pure villenage, is to doe all that the lord will commaund him. So that if a copie holder haue but base estate, he not holding by the performance of everie commandement of his lord, cannot be saide to hold in villenage. Whether it may be said, that copie holders, be by custome and continuance of time, growne out of that extreame servitude, wherein they were first created, I leaue to others of better iudgement: but *Fith. loco citato* saith, tenure by copie is a terme but lately invented.

*Base court*, is any court that is not of record, as the court baron. Of this read *Kitchin. f. 95. 96. &c.*

*Base fee*, See *base estate*.

*Baselard* (*baslerdus*) in the *statut. anno. 12. R. 2. ca. 6.* signifieth a weapon, which *M. Speight* in his

exposition vpon *Chawcer*, calleth *pugionem vel sicam*.

*Bastard* (*bastardus*) See *Bastardy*. and See *Skeene de verbo signif. verbo Bastardus*.

*Bastardy* (*bastardia*) commeth of the French (*bastard. i. nobis*) *Cassanens de consuetu. Burg. pa. 116.* saith (*bastard*) and (*filius naturalis*) be all one. *Bastardy* in our common law, signifieth a defect of birth, objected to one begotten out of wedlock. *Bract. li. 5. ca. 19. per totum*. How bastardie is to be prooued, or to be inquired into, if it be pleaded, see *Rastalls* booke of *Entrise. tit. Bastardie fo. 104. Kitchin. fo. 64.* maketh mention of bastardie speciall, and bastardie generall. The difference of which is, that bastardie generall is a certificate from the Bishop of the dioces to the Kings Iustices, after iust enquiry made, that the party inquired of, is a bastard or not a bastard vpon some question of inheritance. *Bastardy speciall*, is a suite commenced in the Kings court, against him that calleth another bastard: so termed (as it seemeth) because bastardy is the principall and especiall case in triall, and no inheritance contended for. And by this it appeareth, that in both these significations, bastardy is rather taken for an examination or triall, whether a mans birth be detestine or illegitimate, then

it selfe. See *Broke. titulo. Bastardy.*  
*n. 29. and Doſter Ridlies booke.*  
*p. 203. 204.*

*Baſton*, is in french a ſtaffe,  
 club, or couleſtaffe. It ſignifieth  
 in the ſtatuts of our realme, one  
 of the warden of the fleets his  
 ſervants or officers, that attend-  
 eth the Kings court with a red  
 ſtaffe, for the taking of ſuch to  
 warde, as be committed by the  
 court. So it is uſed, *anno 1. R. 2. ca.*  
*12. anno 5. Eliz. ca. 23.*

*Batable ground*, ſeemeth to be  
 the ground in queſtion heereto-  
 fore, whether it belöged to Eng-  
 land or Scotland, lying betweene  
 both the kingdomes. *anno. 23. H.*  
*8. ca. 16.* as if we ſhould ſay de-  
 batable ground. For by that  
 name. *M. Skene. de verbo. ſign. ver-*  
*bo Plegius.* calleth ground, that is  
 in controuerſie betweene two.

*Battell (duellum)* commeth of  
 the French (*bataille. i. bellum, præ-*  
*lium*) and ſignifieth in our cömon  
 lawe, a triall by combate. The  
 maner wherof becauſe it is long,  
 and full of ceremonies, I doe  
 for the better and more full vn-  
 derſtanding of it, referre you to  
*Glanvile, lib. 2. cap. 3. 4. 5. to Bra-*  
*ſton, lib. 3. tract 2 cap. 21. fol. 140*  
*to Britton, cap. 22. and to S. Tho-*  
*mas Smith de repub. Anglorum, li.*  
*2. cap. 7. & lib. 3. cap. 3. See*  
*Bombas.*

*Battery* cömeth of the French  
 (*batre. i. verberare, cudere, percu-*

*tere*) and ſignifieth in our com-  
 mon lawe, a violent ſtriking of a-  
 ny man, which the Civilians call  
*iniuriam personalem, quia persona*  
*inferiur per verbera, cruciatu, &c.*  
*Weſemb. parat. π. de Iniur. & fam.*  
*libel.*

*Baubels (baubella)* is an old  
 word, ſignifying Jewels. *Ro. Ho-*  
*veden parte poſter. ſuorum annal. fo.*  
*449. b.*

*Bearding, alias, Barding of wooll.*  
 See *Clack.*

*Beasers*, ſignifie all one with  
 Maintainers, *anno 20. Edwar. 3.*  
*cap. 5.*

*Beconage (Beconagium)* ſigni-  
 fieth money paid for the main-  
 tenance of Becons.

*Benpleder (pulchrè placitando)* is  
 made of. 2. french words (*beau. i.*  
*decorus, formosus, pulcher*) and (*ple-*  
*der. i. diſputare, & cauſam agere*)  
 It ſignifieth in our common law,  
 a writ vpon the ſtatute of *Marl-*  
*bridge* or *Marlborew*, made the 52.  
 yeare of *H. 3. ca. 11.* whereby it  
 is provided, that neither in the  
 circuit of Juſtices, nor in Coun-  
 ties, Hundreds, or Courts-ba-  
 ron, any fines ſhall be taken of  
 any man for faire pleading, that  
 is, for not pleading fairely or  
 aptly to the purpoſe. Vpon  
 which Statute, this writ was or-  
 dained againſt thoſe, that violate  
 the lawe herein. See *Fitz nat. br.*  
*fol. 270. A. B. C.* whoſe definition  
 is to this effect: The writ vpon



the Staute of *Marlebridge* for not faire pleading, lyeth where the Shyreue or other Bailiffe in his court, will take fine of the party plaintiffe or defendant, for that he pleadeth not fairely, &c.

*Bedell* (*Bedellus*) commeth of the French (*bedeau. 1. apparitor*) & it signifieth with vs, nothing else but a messenger or seruitour belonging to a Court, as a Courtbaron or Leet, *Kitchin fol. 46.* where you may see his oath: or to the Court of the Forest, *Manwood parte pri.* of his Forest lawes, pag. 221. in these words: A Bedell is an officer or seruant of the Forest, that doth make all maner of garnishments of the Courtes of the Forest, and also all maner of Proclamations, as well within the Courts of the Forest as without: and also doth execute all the processe of the Forest. He is like to a Bailiffe errant of a Shyreue in a countie, &c.

*Benefice* (*Beneficium*) is generally taken for all ecclesiasticall liuings, be they dignities or other, as *anno 13. R. 2. stat. 2. ca. 2* where benefices are diuided into electiue, and benefices of gift. So is it vsed in the Canon lawe also. *Duarenus de beneficiis. lib. 2. cap. 3.*

*Beneficio primo ecclesiastico habendo*, is a writ directed from the King to the Chanceler, to bestow the benefice that first shall

fall in the kings gift, aboue or vnder such a valew, vpon this or that man, *Regist. orig. fol. 307. b.*

*Benevolence* (*Benevolentia*) is vsed both in the Chronicles and Statutes of this realme, for a voluntarie gratuitie giuen by the subiects to the King. Looke *Stowes annals pag. 701.* That it hath bene something aunciently accustomed, it appeareth by him and by the Statute *anno 1. Ric. 3. cap. 2.* where it is called a newe imposition: and in that respect reprehended by that tyrant in his predecessors: whether iustly or not I cannot say, nor mind to dispute. But *Stowe, pag. 791.* saith, that the inuention grewe from *Edward* the fourths dayes. You may find it also, *anno 11. H. 7. ca. 10.* to haue bene yeelde to that worthy Prince, in regard of his great expences in wars and otherwise. This is also mentioned and excepted out of the pardon, *anno 1. Ed. 6. cap. 15.* It is in other nations called (*subsidiu charritativum*) giuen somtyme to Lords of the see, by their tements, somtyme to bishops by their Clergy. *Mathians de Afflictis, descif. 136. Cassan. de consuet. Burg. pag. 134. 136. Baldus consilio. 120. vol. 6. pag. 230.* Of this *Manochius* maketh mention, *lib. 2. centur. 2. ca. 178. & 179.* shewing, when it is lawfull for a Prelate *charitativum subsidium à sibi subditis exigere, & quanta*

*Copie bould and Free bould.*

*Bon's arrestandis*, is a writ, for the which See *Arrestandis bonis*.

*Bonis non amovendis*, is a writ to the *Shyreenes* of *London*, &c. to charge them, that one condemned by judgement in an action, and prosecuting a writ of error, be not suffered to remooue his goods, vntill the error be tried. *Register. orig. fo. 131.b.*

*Borow* (*burgus vel burgum*) may either come from the French (*burg. i. pagus*) or from the Saxon (*borhoe. i. vadum, pignus.*) It signifieth here in England a corporate towne that is not a Citie. *anno 2. Ed. 3. ca. 3.* name'ly all such as send *Burgesses* to the Parliament: the number whereof you may see in *M. Cromptons Jurisd. fo. 24.* It may probably be thought, that it was anciently taken for those companies consisting of ten families, which were combynd to be one another's pledge or borhoe: See *Bracton li. 3. tractat. 2. ca. 10.* See *Headborowe*, and *Borowhead*, and *M. Lambard* in the duties of constables. *pa. 8.* *Lynceol* vpon the provincially (*or singula de censibus*), speake to this effect: *Alqui interpretantur burgum esse castrum, vel locum ubi sunt crebra castra. vel dicitur burgus, ubi sunt per similes habitacula plura constituta.*) But then setting downe his owne opinion, he defineth it thus: *Burgus*

*dici potest villa quacunq, alia a ciuitate, in qua est vniuersitas approbata.* And that he proueth oute of the 11. booke of *Iustinians Codex. titulo de fund. rei priuata. 65. et. l. 6. eius tituli.* where *burgum* is termed *corpus*. some deriue it from the greeke (*πορτο. i. turris*) see *M. Skene de verbo signif. verbo. Borghe.* The late author *M. Verslegan.* in his restitution of decayed intelligences, saith, that (*burg*) or (*burnh*) whereof we say yet (*Borough*) or (*Borow*) metaphorically signifieth a towne, hauing a wall, or some kinde of closure about it: also a Castell. All places that in old time had among our auncesters: the name of *borrough*, were places one way or other fenced or fortified.

*Bordlands*, signifie the demesnes, that lords keepe in their hands, to the maintenance of their bord or table. *Bract. li. 4. tractat. 3. ca. 9. au. 5.*

*Borowhead* alias *Headborowe*, (*capitalis plegia*) by *M. Lamberts* opiniõ in his treatise of *Cõstables*, is made vp of these two words. (*borhoe. i. pledge* and (*head*) and signifieth a head or chiefe pledge. And in explication of this, and other Saxon words of this nature, he maketh an excellent rehearfall of some auncient customes of England, during the reigne of the Saxons, which you may reade. This *borowhead* (*in short*)



was the head or cheife man of the Decurie or Borhoe, that there he speaketh of, chosen by the rest to speake, & to doe in the name of the rest, those things that concerned them. See *Borrowholders*.

*Borrowholders*, alias *Bursholders*, be *quasi borhoe ealders*, signifying the same officers that be called borrowheads. (*Lamb.* in the duties of *Constables*.) *Bracton* calleth them (*Borghie Aldere*) li. 3. tractat. 2. ca. 10.

*Borow english*, is a custumarie descent of lands or tenements, whereby in all places where this custome holdeth, lands and tenements descend to the yongest sonne: or, if the owner haue no issue, to his yongest brother: as in *Edmuntton. Kirchin. fo.* 102. And the reason of this custome, as (*Littleton* saith) is, for that the yongest is presumed in lawe, to be least able to shift for himselfe.

*Borow goods diuisible*, I finde these words in the statute of *Alton. Burnel. anno* 11. *Ed.* 1. *statuto unico.* and dare not confidently set downe the true meaning of them. But as before the statute of 32. & 34. *H.* 8. no lands weare diuisible at the common law, but in auncient baronies: so perhaps, at the making of the foresaide statute of *Alton Burnel*, it was doubtfull, whether goods were deuifable but in auncient

borowes For it seemeth by the writ. *de rationabili parte bonorum*, that aunciently the goods of a man were partible betwene his wife and children.

*Bote*, signifieth compensation. *Lamb.* explication of *Saxon words*. Thence cometh (*manbote*, alias *monbote*) that is compensation or amends for a man slaine, which is bound to another. For farder vnderstanding whereof, it is to be scene in *K. Inas* lawes, set out by *M. Lamberd. ca.* 96. what rate was ordeined for the expiation of this offence: See *Hedgebote*, *Plowbote*, *Horsebote*. & reade *M. Skene de verbo. signif. verbo. Bote*.

*Botiler of the king* (*pincerna regis*) anno 43. *Ed.* 3. ca. 3. is an officer that prouideth the Kings wines: who (as *Fleta li.* 2. ca. 21. saith) may by vertue of his office out of every shippe loaden with sale wines, *unum doleum eligere in prora navis ad opus regis, & aliud in puppi, & pro qualibet pecia reddere tantum 20. solid. mercatorum. Si autem plura inde habere voluerit, bene licebit: dum tamen precium fide dignorum iudicio pro rege apponatur.*

*Bowbearer*, is an vnder officer of the forest (as *M. Crompton* in his *iurisdic. fo.* 201. setteth down, sworne to the true performance of his office in these words: I will true man be to the master for-

ster of this forest, & to his lieutenant : and in the absence of them, I shall truly oversee, and true inquisition make, as well of swornemen as vnsworne in euerie bayliwick, both in the north bayle. and south bayle. of this forest, and of all maner of trespasses done, either to vert or venison, I shall truly endeavour my selfe to attach, or cause them to be attached, in the next court Attachement, there to be presented, without any concealment had to my knowledge: so helpe me God, &c.

*Bracton* (otherwise called *Henry* of *Bracton*) was a famous lawyer of this land, renowned for his knowledge both in the common and civill lawes, as appeareth by his booke every where extant. He liued in the daies of *Henry* the third. *Starr. prero fo. 5. b.* and as some say, Lord cheife Iustice of *England*.

Bread of treatie, and bread of coket. *anno. 5. 1. H. 3. statuto. 1. of bread and ale.*

*Bred*, signifieth broad. This word *Bracton* vseth, *li. 3. tracta. 2. ca. 15. nu. 7.* proverbially thus: to lunge and to bred: the meaning whereof you may there finde, word for word it is, as we now speake, two long and two broad: or two in length, and two in breadth.

*Brenibus, & rotulis liberandis*, is

a writ or mandat to a *Shyreue* to deliuer vnto the newe *Shyreue* chosen in his roome, the county with the appertenance, together with the rols, briefes, remembrances, and all other things belonging to that office.

*Register. original. fo. 295. a.*

*Bribours*, commeth of the french (*bribeur. i. mendicus*) It seemeth to signifie with vs, one that pilfeth other mens goods. *anno 28. Ed. 2. stat. 1. ca. unico.*

*Brief* (*breve*) commeth from the French (*breif ou breif. i. brevis*) and in our common lawe, signifieth a writ, whereby a man is summoned to answer to any action: or (more largely) any precept of the king in writing, issuing out of any court, whereby he commaundeth any thing to be done, for the furtherance of iustice or good order. The word is vsed in the ciuile lawe, some time in the singular number and masculine gender. as *l. ult. Cod. de conueniendis fisci debitoribus. li. 10. tit. 2.* you haue these words: *Inter chartulas confiscati brevis, quidam adseueratur inuicem, qui nomina continebat debitorum.* Where it is vsed for a short note. Again, I finde a title restored by *Gothofred*, in the first booke of the *Code. de quadrimestris breuibz. Quadrimestris autem breues erant, qui de singulis indictionum personibus, quarto quoq; mense solutis, consiciebantur.*



Also *Lampridius* in *Alexandro* hath it singularly thus: *uotarium, qui falsum causa breuem in consilio imperatoris retulisset, &c.* And in the *Authētiques. Nouel. 105. ca. 2.* you haue this word (*breuiatores. i. breuium proscriptores*). *Breues autem, breuia, breuicula, sunt charta siue libelli breues*, as *Gothofred.* there noteth. Where he noteth likewise out of *Zonarus in Carthagio: Cōcilio*, that this is a greeke word, thus: *ἑστὶν ὁ ἐπὶ τοῦ ἀγγέλου καὶ τοῦ ὁποῦ ὅτι γράφει.* See *Skene de verbo. signif. verbo Breue.* Of these breifes see also *Bracton. li. 5. tract. 5. ca. 17. nu. 2.* *Breue quidem cum sit formatum ad similitudinem regula iuris, quia breuiter & paucis verbis intentionem proferentis exponit & explanat, sicut regula iuris rem que est breuiter enarrat. Non tamen ita breue esse debet, quin rationem & vim intentionis contineat. &c.*

*Brigandine* (*lorica*) is the french (*brigandine*) that is a coate of maile. This is vsed. *anno 4. & 5. Ph. & Mar. ca. 2.*

*Brigbore*, significat *quietantiam reparationis portum.* *Fleta. li. 1. ca. 47.* It is compounded of (*brig*) a bridge and (*bore*) which is a yeelding of amends or supplying a defect. See (*Bore*) and *Bruckbore.*

*Britton*, was a famous Lawyer, that liued in the daies of *K. Edward* the first, at whose commandemēt, &c by whose authority he

writ a learned booke of the lawe of this realme. The tenure whereof runneth in the Kings name, as if it had beene penned by himselfe, answerably to the Institutions, which *Iustinian* assumeth to himselfe, though composed by others. *Stamf. prae. fo. 6. & 21. S. Edward Cooke* saith, that this *Britton* writ his booke in the fiftie yeare of the said Kings reigne. *li. 4. fo. 126. a. & lib. 6. fo. 67. a. M. Guin.* in the preface to his reading, mencioneth, that this *Iohn Britton* was bishop of *Hereford.*

*Broke*, commonly called *S. Robert Broke*, was a greate lawyer and lord chiefe Iustice of the cōmon plects in *Queene Maries* time. *Cromptons Iustices of peace. fo. 22. b.* he made an abbridgement of the whole lawe, a booke of highe accompr.

*Braker* (*brocarius*) seemeth to come from the French (*broier. tritor*) that is a grynedor or breaker into small peeces. Because he that is of that trade, to deall in maters of mony and marchandise betwene Englishe men and Strangers, doth draw the bargain to particulars, and the parties to conclusion, not forgetting to grinde out somthing to his owne profit. These men be called *broggers.* *anno. 10. R. 2. ca. 1.* It may not improbably be said, that this word cometh from

*carder. i. cavillari.*) because these kinde of men, by their deceitfull speeches and abusing their true trade, many times inuegle others. In *Scotland* they be called (*broccary*) and in their owne idiome, blockers or brockers, that is, mediators or intercessors in any transaction, paction, or contract: as in buying or selling, or in contracting marriage. *Skene de verbo. signi. verbo. broccary.*

He that will know what these brokers were wont & ought to be, let him read the *statut. anno. 1. Iacobi. ca. 21.* These in the civile lawe are called (*proxeneta*) as also of some (*licitatores & mediatores. titulo. de proxenetis. in Digestis.*) This kind of dealer is also of the Romanes called (*pararius*) *Seneca. li. 2. de benef. ca. 22. Calius Rhodoginus. libro. 6. ca. 32. & li. 3. cap. 15.*

*Broderers* (commeth of the French (*brodeur*) and that commeth of (*bordure. i. fimbria. limbus*) the edge or hemme of a garment. And that because it is distinguished frō the rest, most cōmōly, by some conceived or costly worke; he that worketh it, is called (*brodeur*) in French, and broderer or embroiderer with vs.

*Brodehalpeny*, commeth of the three Saxon words (*bres*, or *bred*), *i. a board*; and (*haive*) that is, for this, or that cause (*quius rei gratia*) as the Latimists speake, and

(*penning*) it signifieth a tolle or custome for setting vp of tables or boords in a Faire or Market. From the which they that are freed by the Kings Charter, had this word mentioned in there letters patents. In so much, as at this day the freedome it selfe (for shortnesse of speech) is called by the name of *brodehalpenie*.

*Brogers.* See *Brokers.*

*Bruckbote* (*Pontagium*) is compounded of two German words (*bruck. i. pons.*) and (*bote. i. compensatio.*) It signifieth with vs, a tribute, contribution, or ayde toward the mending or reedifying of bridges; whereof many are freed by the kings charter. And thereupon the word is vsed for the very libertie or exemptiō from this tribute. See *Pontage & Brighote.*

*Bull* (*bullā*) seemeth to come from the Greeke, (*βυλλη. i. consilium*) as *Polidorus Virgilius* saith, *de inventio. rerum. lib. 8. cap. 2.* It signifieth the letters, by the Canonists called *Apostolique*, strengthened with a leaden seale, and containing in them the decrees or commandements of the Pope or bishop of Rome. The word is vsed many times in our Statutes: as *anno 28. H. 8. cap. 16. & anno 1. & 2. Ph. & Ma. ca. 8.*

*Bullion*, cometh of the French (*billon*) that is, the place where gold is tried. It signifieth with



vs, gold or siluer in the masse or billet, *anno 9. Ed. 3. stat. 2. cap. 2.* and sometime the Kings exchange or place, whether such gold in the lumpe is brought to be tryed or exchanged, *anno 27. Ed. 3. stat. 2. cap. 14. & anno 4. H. 4. cap. 10.* See *Skene de verbo. signif. verbo Bullion.*

*Burghote*, commeth of (*burg. i. castellum*) and (*bote. i. compensatio*) and signifieth a tribute or contribution toward the building or repairing of castels, or walles of defence, or toward the building of a borow or city. Fro this diuers had exemption by the auncient charters of the Saxon kings. Whereupon it is taken ordinarily for the exemption or libertie it selfe. *Rastals expos. of words. Flesa* hath these words of it: *Significat quietantiam reparationis murorum civitatis vel burgi li. 1. cap. 47.*

*Burgh English.* See *Borow English.*

*Burgage* (*burgagium*) is a tenure proper to cities & townes, whereby men of cities or borowes, hold their lands or tenements of the King, or other Lord for a certaine yearely rent. *Old Tenures.* It is a kind of socage. *Swinborn. parte 3. s. 3. nu. 6.*

*Burglarie* (*burglaria*) is compounded of two French words, (*bourg. i. pagus, villa*) and (*larecin, i. furum*), or of (*bourg & la-*

*ron*) *Coke lib. 4. fol. 39. b.* It is, according to the acceptance of our common lawe, thus defined: *Burglarie* is a felonious entring into another mans dwelling house, wherein some person is, or into a Church in the night time, to the end to commit some felonie therein: as to kill some man, or to steale somewhat thence, or to do some other felonious act there, albeit he execute not the same. If the intent, or fact of this offender, be to steale, this is like robberie, if to murder, it differeth not much from murder, and so of other felonies. *West. parte 2. symbol. titulo. Indictments. Sect. 56.* *Burglarie*, in the naturall signification of the word, is nothing, but the robbing of a house: but as it is (*vox artis*) our common Lawyers restraine it to robbing a house by night, or breaking in with an intent to robbe, or to do some other felonie. The like offence committed by day, they call house-robbing, by a peculiar name. How many wayes *burglarie* may be committed, see *Cromptons Iustice of peace, fol. 28. b. & fol. 29. 30.*

*Butlerage of wines*, signifieth that imposition of sale wine brought into the land, which the Kings butler, by vertue of his office, may take of every shippe, *anno 1. H. 8. cap. 5.* For the

the which see more in *Boyley*.

## C

**C** *Ablish* (*cablicia*) among the writers of the Forest lawes, signifieth brush wood, *Manwood* parte pag. 84. *Cromptons Invisd.* fol. 165.

*Calamus*, is a cane, reed, or quill, the diuers kinds whereof, you haue set downe in *Gerards Herball. lib. 1. cap. 24.* This is comprized among merchandize and drugs to be garbled, in the statute *anno 1. Iacobi*, cap. 19.

*Calendrim of Worsseds.* anno 5. *H. 8. cap. 4.* & *anno 35. eiusdem.* cap. 5.

*Canred*, is as much in *Wales*, as an hundred in *England*. For *Camre* in the British tongue signifieth *centum*. This word is vsed *anno 28. H. 8. cap. 3.*

*Cape*, is a writ iudiciall touching plee of land or tenements, so tearmed (as most writs be) of that word in it selfe, which carieth the especiallest intention or end thereof. And this writ is diuided in (*Cape magnum*, & *Cape paruum*): both which (as is before said in Attachment) take hold of things immoueable, and seeme to differ betweene themselves in these points. First, because (*cape magnum*) or the (*grand Cape*) lyeth before ap-

pearance, and (*Cape paruum*) afterward. Secondly, the (*Cape magnum*) summoneth the tenant to answer to the default, and ouer to the demaundant: (*Cape paruum*) summoneth the tenant to answer to the default onely: and therefore is called (*Cape paruum*) or in French English (*petit Cape.*) *Old. nat. br. fol. 161. 162.* Yet *Ingham* saith, that it is called (*petit Cape*) not because it is of small force, but that it consisteth of few words. (*Cape magnum*) in the *old nat. br.* is thus defined. This writ is a iudiciall, and lyeth where a man hath brought a (*Pracipe quod reddat*) of a thing that toucheth plee of land, and the tenant make default at the day to him giuen in the writ originall: then this writ, shall goe for the king, to take the land into the kings hands: and if he come not at the day giuen him by the (*grand Cape*) he hath lost his land, &c. A president and forme of this writ you may see in the Register iudiciall, fol. 1. b. It seemeth after a sort to containe in it the effect (*missio- nis in possessionem ex primo & secundo decreto*) among the Civilians. For as the first decree seiseth the thing, and the second giueth it from him, that the second time defaulteth in his appearance: so this (*Cape*) both seiseth the land, and also assigneth to the partie a



farder day of appearance, at which if he come not in, the land is forfeited. Yet is there difference betweene these two courses of the ciuill and common lawe: first, for that (*missio in possessionem*) toucheth both moueable and immoueable goods, whereas the (*cape*) is extended only to immoueable: secondly, that the partie being satisfied of his demand, the *remanet* is restored to him that defaulted: but by the (*cape*) all is seised without restitution: thirdly, (*missio in possessi*) is to the vse of the partie agent, the (*cape*) is to the vse of the king. Of this writ, and the explication of the true force and effect thereof, reade *Bracton lib. 5. tract. 3. cap. 1. num. 4. 5. & 6.* See *Cape ad Valentiam*.

*Cape paruum*, in the *Old. na. br. fol. 162.* is thus defined: This writ lyeth, in case where the tenant is summoned in plee of land, and commeth at the summons, and his appearance is of record, and after he maketh default at the day that is giuen to him: then shall goe this writ for the king, &c. Of this likewise you haue the form in the Register iudiciall, *fol. 2. a.* Why it is called *cape paruum*, see in *cape magnum*. Of both these writs, reade *Fleta lib. 6. cap. 44. & Magnum & seqq.* but

*Cape ad Valentiam*, is a species of *cape magnum*, so called of the end whereunto it tendeth. In the *Old nat. br. fol. 161. 162.* it is thus defined or described: This writ lyeth, where any impleaded of certaine lands, and I vouch to warrant another, against whom the summons *ad warrantizandum*, hath bene awarded, and the Shyreue commeth not at the day giuen: then if the demandant recouer against me, I shall haue this writ against the vouchee, and shall recouer so much in value of the land of the vouchee, if he haue so much: and if he haue not so much, then I shall haue execution of such lands and tenements, as descend vnto him in fee-simple: or if he purchase afterward, I shall haue against him a resummons: and if he can nothing say, I shall recouer the value. And note ye, that this writ lyeth before apparence. Thus farre goeth the booke. Of these, and the diuers vses of them, see the Table of the Register iudiciall, *verbo. Cape*.

*Capias*, is a writ of two sortes, one before iudgement called (*Capias ad ressordendum*) in an action personall, if the Shyreue vpon the first writ of distresse returne (*nihil habet in balua nostra*) and the other is a writ of execution after iudgement, being also

of diuers kindes (*viz.* *Capius ad satisfaciendum*, *Capius pro fine*, *Capius vtilagatum*, *Capius vtilagatum & inquiras de bonis & catallis*).

*Capius ad satisfaciendum*, is a writ of execution after iudgement, lying where a man recouereth in an action personall, as debt, or dammages, or detinew in the kings court: and he against whome the debt is recouered, and hath no lands nor tenements, nor sufficient goods, whereof the debt may be leuied. For in this case, he that recouereth, shal haue this writ to the shreue, commanding him that he take the body of him, against whome the debt is recouered: and he shalbe put in prison, vntill satisfaction be made vnto him that recouered.

*Capius pro fine*, is where one being by iudgement fined vnto the king, vpon some offence committed against a statut, doth not discharge it according to the iudgement. For by this is his body taken, and committed to prison, vntill he content the king for his fine. *Coke. li. 3 fo. 12 a.*

*Capius vtilagatum*, is a word of execution, or after iudgement, which lyeth against him that is outlawed vpon any suite: by the which the shyreue vpon the receite thereof, apprehendeth the party outlawed, for not appear-

ring vpon the (*exegend*) and keepeth him in safe custodie vntill the day of returne assigned in the writ: and then presenteth him vnto the court, there farder to be ordered for his contempt.

*Capius vtilagatum, & inquiras de bonis & catallis*, is a writ al one with the former, but that it giueth a farder power to the shyreue, ouer and beside the apprehension of the body, to inquire of his goods and cattels. The forme of all these writs see in the *ould nat. br fo. 154.* and see the *Termes of law, verbo Proces*. Lastly you may finde great variety of this kinde, in the table of the Register iudiciall. *verbo Capius*.

*Capius in Withernamium de areris*, is a writ lying for catell in *Withernam*. Register orig fo. 82. & 83. see *Withernam*.

*Capius in Withernamium de homine*, is a writ that lyeth for a seruuant in *Withernam*. Register. orig. fo. 79. & 80. see *Withernam*:

*Capius condempnos ad proficiscendum*, is a writ that lieth for the taking vp of such, as hauing receiued prest mony to serue the king, sink away, and come not in at their time assigned. Register. orig. fo. 191.

*Capitaine*, alias *capitayne* (*capitaneus*) cometh of the French (*capitaine*) and significth with vs, him that leadeth, or hath charge of



of a companie of souldiers : and is either generall, as he that hath the gouernance of the whole host: or speciall, as he that leadeth one only band. The word (*capitanei*) in others nations signifieth more generally those, that are in latine called (*principes*) or (*proceres*) because, as *Hottoman* saith in *verbis feudalis* : *tanquā caput reliquo corpori, sic hi reliquis civibus præsunt*. He divideth them into two sorts : and to vse his words. *alii sunt capitanei regni: quo verbo Duces, Comites, Marchiones intelliguntur. li. 1. feudo. tit. 1. §. 1. & tit. 7. Alii improprie, qui urbem præfecti sunt, quibus plebs ab aliquo superiorum gubernanda committitur: qui & vassallos regni, & maiores appellantur. l. 1. feud. tit. 1. §. 1. & tit. 7. & tit. 17.* So we haue captaines of castels heere in England, and other places, as of the Isles of *Gearsey* and *Gearnsey*, of the Isle of *Weight*, &c.

*Capite*, is a tenure, which holdeth immediately of the king, as of his crowne, be it by knights seruice or socage: *Broke. tit. Tenures. 46. 94. Dyer. fo. 123. nu. 38 & fo. 363. nu. 18.* & not as of any Honour, castell, or maner: and therefore it is otherwise called a tenure, that holdeth meerely of the king, because as the crowne is a corporation, and seignury in grosse (as the common lawyers terme it) so the King that

possesseth the crowne, is in accōpt of lawe, perpetually King, and neuer in his minoritie, nor neuer dieth : no more then (*populus*) doth, whose authoritie he beareth. See *Fitzh. nat. br. fo. 5. F.* Note by the way, that a man may hold of the king, and not (*in Capite*) that is, not immediately of the crowne in grosse, but by means of some Honour, castell, or maner belonging to the Crowne, whereof I hold my land. Whereof *Kitchin* saith well, that a man may hold of the King by Knight seruice, and yet not in *capite*, because he holdeth happily of some honour by Knights seruice, which is in the kings hands (as by descent from his auncesters) and not immediately of the king, as of his crowne. *fo. 129.* with whome agreeth *Fitzh. nat. br. f. 5. K.* whose words are to this effect: So that it plainly appeareth, that lands which be held of the king, as of an honour, castell, or maner, are not held in *capite* of the King: because that a writ of right, in that case, shall be directed to the bayliffe of the honour, castell, or maner, &c. but when the lands be held of the King, as of his crowne, then they be not held of honour, castell, or maner, but meerely of the King, as King, and of the Kings crowne, as of a seignury of it selfe in grosse, and the cheife aboue all other seignuries,

ries,&c. And this tenure in *capite* is otherwise called tenure holding of the person of the King. *Dyer. fo. 44. n. 37.* Author of the new termes. *verb. Tenure in capite. Broke. titulo. Tenures. nu. 65. 99.* And yet *M. Kitchin. fo. 208.* saith, that a man may hold of the person of the King, and not in *capite*. His example is this: if the King purchas a maner that *I. S.* houldeth, the tenent shall hold as he held before, and shall not render livery or *primer seisin*, nor hold in *capite*: And if the king graunt that maner to *W. N.* in fee, excepting the seruices of *I. S.* then *I. S.* holdeth of the king, as of the person of the king, and yet houldeth not in *capite*, but as he held before. So that by this booke, tenuere houlding of the person of the king, and tenure in *capite*, are two diuers tenures. To take away this difficulty, I thinke *M. Kitchin* is in that place to be taken, as if he saide, not in *capite* by Knights seruice, but by socage, folowing the vsuall speech: because most commonly where we talke of tenure in *capite*, we meane tenure by Knights seruice.

*Carno, Cromptons iurisd. fol. 191.* is an imunity

*Carke*, seemeth to be a quantitie of wolfe, whereof thirtie make a Sarpler. *anno. 27. H. 6. ca. 2.* See Sarpler.

*Carrack*, alias *Carrick*, seemeth to be a shippe of burden, so called of this Italian (*carrico*) or (*carco*) a burden or charge, or of the spanish (*cargo*) ycu haue this word. *anno 2. R. 2. ca. 4. & anno 1. Iaco. ca. 33.*

*Carroway feedes*, alias *Carroway feedes* (*semen cari vel carci*) is a seed springing of the herbe so called, of whose operation you may read in *Gerards herball. li. 2. ca. 396.* It is reckoned among the merchandize, that ought to be garbled. *anno. i. Iaco. ca. 19.*

*Carue of land* (*carucata terra*) cometh of the French (*charue. i. aratrum*) and with vs is a certaine quantitie of land, by the which the subiects haue some time bene taxed: wherevpon the tribute soe leuied, is called (*Caruage Caruagium.*) *Bracton. li. 2. ca. 16. nu. 8.* It is all one with that, which the same author. *lib. 2. ca. 17.* calleth (*carucatum terra*) For *Littleton ca Tenure in socage.* saith, that (*hac soca soca, idem est quod carusa*) *sc.* one sok or one plow land. Yet one place I finde in *Stones annals*, that maketh me doubt. *pag. 271.* where he hath these words: The same time king *Henry* tooke caruage, that is to say, two merks of siluer of euery knights fee, toward the mariage of his sister *Izabell* to the Emperour: where caruage cannot be taken for a plow land, except

M 1 there



there were some other farder di-  
 uision, whereby to raise of euery  
 plowe land so much: and so con-  
 sequently of euery Knights fee:  
 that is, of euery 680. acres, two  
 merkes of siluer. *Rastall* in his  
*Exposition of words* saith, that car-  
 uage is to be quite, if the lord the  
 King shall taxe all the land by  
 carues: that is, a priuiledge,  
 whereby a man is exempted fro  
 caruage. *Skene de verb. signif. ver.*  
*Carucata terra*, deriueith it from  
 the French (*charon*. i. a plough,  
 and saith, that it containes as  
 great a portion of land, as may  
 be tilled and laboured in a yere  
 and day with one plough: which  
 also is called *hilda*) or (*bida ter-  
 ra*) a word vsed in the old Bri-  
 taine lawes. *M. Lamberd* among  
 his precedents, in the end of his  
*Eirenarcha*, translateth (*carucatu  
 terre*) a plough land.

*Caruage* (*caruagium*,) see  
*Carue*.

*Cassia Fistula*, is a tree that bea-  
 reth certaine blacke, round, and  
 long cods, wherein is contained  
 a pulpe, soft & pleasantly sweet,  
 seruing for many vses in Physick.  
 This tree with her vertues you  
 may find described in *Gerards  
 Herball*, lib. 3. cap. 77. The fruite  
 is mentioned in the statute, anno  
 1. *Iacob*. cap. 19. among drugges  
 and spices, that be to be gar-  
 bled.

*Cassia lignea*, is a sweet wood

not vnlike to *Cynamom*, and  
 sometime vsed in steede of *Cy-  
 namom*. Whereof you may read  
 in *Gerards Herball*, lib. 1. ca. 141.  
 This is called *Cassia lignum*, in  
 the Statute anno 1. *Iacob*. cap. 19  
 and is comprised among mer-  
 chandize that are to be garbled.

*Castellain* (*castellanus*) is a kee-  
 per or a Captaine, sometime cal-  
 led a Constable of a castell, *Brat-  
 ton* lib. 5. tractat. 2. cap. 16. &  
 lib. 2. cap. 32. num. 2. In like ma-  
 ner is it vsed, anno 3. Ed. 1. cap 7.  
 In the bookes (*de feudis*) you  
 shall find (*gnastaldus*) to be al-  
 most of the same signification,  
 but something more large: be-  
 cause it is also extended to those  
 that haue the custodie of the  
 Kings mansion houses, called of  
 the *Lumbards* (*curies*) in England  
 (Courts,) though they be not  
 places of defence or strength.  
*M. Mamwood*, part. 1. of his Fo-  
 rest lawes, pag. 113. saith, that  
 there is an officer of the Forest  
 called *Castellanus*.

*Castelward* (*castelgardum*, vel  
*wardum castri*) is an imposition  
 laide vpon such of the kings sub-  
 iects, as dwell within a certaine  
 compasse of any castell, toward  
 the maintenance of such, as doe  
 watch and ward the castell. *Ma-  
 gna charta*, cap. 20. & anno 32.  
*H. 8*. cap. 48. It is vsed sometime,  
 for the very circuit it selfe, which  
 is inhabited by such as are sub-  
 iect

iect to this service, as in *Stowes annals*, pag. 632.

*Casu consimili*, is a writ of entrie, graunted where the tenent by courtesie, or tenent for terme of life, or for the life of another, doth alien in fee, or in taylor, or for tearme of anothers life. And it hath the name of this, for that the Clerkes of the Chauncerie did, by their common consent, frame it to the likenesse of the writ, called (*In casu proviso*) according to their authoritie giuen them by the Statute, *Westm. 2. cap. 24.* which, as often as there chanceth any new case in Chancerie, something like to a former case, and yet not especially fitted by any writ, licenceth them to lay their heads together, and to frame a new forme answerable to the new case, and as like some former case as they may. And this writ is graunted to him in the reuerfion, against the party to whom the said tenent so alienateth to his prejudice, and in the life time of the said tenent. The forme and effect whereof reade more at large in *Fitz. nat. br. fol. 206.*

*Casu proviso*, is a writ of entry, giuen by the Statute of *Glocester, cap. 7.* in case where a tenent in dower alieneth in fee or for tearme of life, or in taylor,

and lyeth for him in reuerfion against the alienee. Whereof reade *Fuz. nat. br.* more at large, *fol. 205.*

*Catals* (*catalla*) alias *chatels*, cometh of the *Normans*. For in the 87. chapter of the grand Customarie you shal find, that all moueable goods with them, are called chatels: the contrary whereof is (*fief*) *ibid.* which we do call fee. But as it is vsed in our common law, it comprehendeth all goods moueable and immoueable, but such as are in the nature of free hold, or parcell thereof, as may be gathered out of *Samf. prero. ca. 16.* and *anno. Eliza. 1. ca. 2.* How be it *Kitchin* in the chapter *catalla. fo. 32.* saith, that ready mony is not accompted any goods or catels, nor haukes, nor houndes. The reason why hawks and hounds be not, he giueth, because they be (*fera natura*) why money is not, though he set not downe the cause: yet it may be gathered to be, for that money of it selfe, is not of worth, but as by cōsent of men, for their easier traficke, or permutation of things necessary for common life, it is reckoned a thing rather consisting in imagination, then in deede. *Catals* be either personall or reall. Personall may be so called in two respects: one, because they be-



long immediatly to the person of a man, as a bowe, horse, &c. the other, for that being any way withheld iniuriouly from vs, we haue no meanes to reco-uer them, but by personall action. *Chatels* reall be such, as either appertain not immediatly to the person, but to some other thing, by way of dependencie: as a boxe with charters of land, the body of a ward, apples vpon a tree, or a tree it selfe growing on the ground. *Cromptons Iustice of peace*. fo. 33. B, or els such as are necessary issuing out of some immoveable thing to a person: as a lease or rent for tearme of yeares. Also to hould at will, is a chattell reall. *New tearmes. verbo Chatell*. The ciuilians comprehend these things, as also lands of what kinde or hould so euer, vnder *bona; bona autē diuiduntur in mobilia & immobilia: mobilia verò in ea quæ se movent vel ab aliis moventur. v. legem. 49. §. l. 208* & de. verb. significa. & interpretes *ibidem*. *Bract.* also ca. 3. l. 2. nu. 3. & 4. seemeth to be of the same iudgement.

*Catallis captis nomine districtionis*, is a writ which lyeth within a borowe, or within a house, for rent going out of the same, and warranteth a man to take the doores, windowes, or gates, by way of distresse, for the rent. *Old nat. br. fo. 66.*

*Catallis reddendis*, is a writ, which lyeth where goods being deliuered to any man to keepe vntill a certaine day, and be not vpon demande deliuered at the day. And it may be otherwise called a writ of detinew. See more of it in the *Register orig. fo. 139.* and in the *ould nat. br. fo. 63.* This is answerable to *actio depositi*, in the ciuile lawe.

*Caschepolle*, though it now be vsed as a word of contempt, yet in auncient times, it seemeth to haue bene vsed without reproch, for such as we now call sergeants of the mace, or any other that vse to arrest men vpon any cause. *anno. 25. Ed. 3. stat. 4. ca. 2.*

*Cathedrall*. See church.

*Casu matrimonii pralocuti*, is a writ which lyeth in case where a woman giueth lands to a man in fee simple, to the intent he shall marry her, and refuseth so to doe in reasonable time, being required thereunto by the woman. The forme, and farther vse hereof, learne in the *Register orig. fol. 233.* and in *Fitzb. nat. br. fo. 205.*

*Causam nobis significes*, is a writ which lyeth to a Mayor of a towne or city, &c. that formerly by the kings writ being commaunded to giue seisin vnto the kings grantee of any land or tenements, doth delay so to do

do, willing him to shew cause, why he so delayeth the performance of his charge. *Coke. li. 4. casu communalty des Sadlers. fo. 55. b.*

*Cautione admittenda*, is a writ that lyeth against the Bishop, houlding an excommunicate person in prison for his contempt, notwithstanding that he offereth sufficient caution or assurance to obey the commandments and orders of holy church from thence forth: The forme and farder effect whereof, take out of the *Registr. orig. pa. 66.* and *Fitzh. nat. br. fol. 63.*

*Century (centuria)* See *Hundred.*

*Cepi corpus*, is a retorne made by the Shyreue, that vpo an (exigēd) he hath taken the bodie of the partie. *Fitzh. nat. br. fo. 26.*

*Certiorari*, is a writ issuing out the chauncerie, to an inferior courte, to call vp the records of a cause therein depending, that conscionable iustice therein may be ministred, vpon complaint made by bill, that the partie which seeketh the said writ, hath receiued hard dealing in the said court. *Termes of the lawe.* See the diuers formes and vses of this, in *Fitzh. nat. br. fo. 242.* as also the Register, both originall and iudiciall in the tables. *verbo.* *Certiorari.* *Crompton* in his *Iustice of peace* fo 117. saith, that this writ is either returnable in the Kings bench, and then hath these

wordes (*nobis mittatis*): or in the chauncerie, and then hath (*in cancellaria nostra*) or in the common bench, and then hath (*Iusticiariis nostris de banco.*) The word (*certiorare*) is vsed diuers times in the *digest* of the ciuile lawe: but our later *Kritiques* think it soe barbarouse, that they suspect it rather to be soisted in by *Tribonian*, thē to be originally vsed by those men, of whose workes the saide *digest* is compiled. *Prataus in suo lexico.*

*Certificat (certificatoriu)* is vsed for a writing made in any courte, to giue notice to another courte of any thing done therein. As for example, a certificate of the cause of attainece, is a transcript made briefely and in few words, by the clerke of the Crowne, clerke of the peace, or clerke of assise, to the courte of the Kings benche, conteyning the tenure and effect of everie enditement, outlawrie, or conviction, and clerke attained, made or pronounced in any other court. *an. 34. H. 8. c. 14.* Of this see more in *Certificat d'eresque. Broke. f. iij.*

*Certification of assise of novel disseisin, &c.* (*Certificatio assise nova disseisine. &c.*) is a writ graunted for the re examining or renew of a mater passed by assise before any Iustices, and is called (*certificatione nova disseisine*) *Old. nat. br. fo. 181.* Of this see also the Register



*ster. original. fo. 200.* and the newe booke of entrise, *verbo. Certificat of assise*. This word hath vse, where a man appearing by his bayliffe to an assise brought by another, hath lost the day: and hauing something more to pleade for himselfe, as a deede of release, &c. which the bayliffe did not, or might not pleade for him, desireth a farther examination of the cause either before the same Iustices, or others: and obtaineth letters patents vnto them to that effect. (The forme of these letters patents, you may see in *Fitzh. nat. br. fo. 181.*) and that done, bringeth a writ to the Shyreue, to call both the party for whome the assise passed, and the Iurie that was empaneled vpon the same, before the said Iustices at a certaine day and place. And it is called a certificate, because in it there is mention made to the Shyreue, that vpon the parties complainte of the defectiue examination, or doubts yet remaining vpon the assise passed, the King hath directed his letters patents to the Iustices, for the better certifying of themselves, whether all points of the said assise were duly examined, yea or not. See farther *old. nat. br.* and *Fitzh. ubi supra*. Of this also you may reade *Bracton. li. 4. ca. 19. nu. 4. in fine.* & 5. 6. where he discusseth

the reason of this pointe very learnedly, and lastly *Horn* in his *Mirror of Iustices. li. 3. ca. finali. §. en eyde des memoires, &c.*

*Certificando de recognitione Stapule*, is a writte directed to the *Mayor* of the *staple*, &c. commaunding him to certifie the chaunceler of a statute of the *staple*, taken before him betweene such and such, in case where the partie himselfe detaineth it, and refuseth to bring it in. *Regist. orig. fo. 152. b.* In like maner may be said of (*certificando de statuto mercatorio eodem. fo. 148.* and (*de certificando in cancellarium de inquisitione, de idempnitate nominis*) *fo. 195.* and (*certificando quando recognitio*), &c. and (*certificando quid actum est de breui super statutum mercatorium.*) *fo. 151* & *certificando si loquela Warantie. fo. 13.*

*Cessor*, is he that ceseth or neglecteth so long to performe a dutie belonging vnto him, as that by his cesse or cessing he incurreth the daunger of lawe, and hath, or may haue the writ (*cessariu*) brought against him. *Old. nat. br. fo. 136.* And note, that where it is saide in diuers places (the tenent cesseth) without any more words, such phrase is so to be vnderstood, as if it were said: the tenent ceseth to doe that which he ought, or is bound to doe by his land or tenement.

*Cessavit*, is a writ that, lyeth in diuers cases, as appeareth by *Fitzb nat. br. fo. 208.* vpon this generall grounde, that he against whome it is brought, hath for 2. yeares foreflowne to performe such seruice, or to pay such rent, as he is tied vnto by his tenure, and hath not vpon his land or his tenement, sufficient goods or catells to be distreined. Consult more at large with *Fitz.* vpon this *ubi supra.* with *Fleta. li. 5. ca. 34. §. visa sunt.* and with the *Termes of lawe.* See *Cessavit de cantaria. Register orig. fo. 238.* *Cessavit de feodi firma. eodem fo. 237.* *Cessavit per biennium. eodem folio etiam eodem.* See the newe booke of entrise. *verbo Cessavit.*

*Cestui qui vie*, is in true French (*cestui a vie de qui*). i. he for whose life any land or tenement is graunted. *Perkins graunts. 97.*

*Cestui qui vse* (*ille cuius vsui vel ad cuius vsu*) is broken french, and thus may be bettered: (*Cestui al vse de qui*) It is an ordinarie speech among our common lawyers, signifying him, to whose vse any other man is infeoffed in any lands or tenements. See the newe booke of entrise. *verbo vses.* and in *Replevin. fo. 503. colum. 3.* & *verbo Trespas fo. 606. & fo. 123. a. b. colum. 3. nu. 7.*

*Chafewaxe*, is an officer in chauncery, that fitereth the waxe for the sealing of the writs,

and such other instruments as are there made to be sent out. This officer is borrowed from the French. For there (*calefactores cera sunt, qui regis literis in Cancellaria ceram imprimunt. Corasius.*

*Chase* (*chacea*) commeth of the French (*chasser. i. sectari belluas, apros, cervos*) It signifieth two things in the common lawe. First, as much as (*actus*) in the civil lawe, that is a drying of catell to or from any place: as to chase a distresse to a fortlet. *Old nat. br. fo. 45.* Secondly, it is vsed for a receite for deere and wilde beasts, of a middle nature betweene a forest, and a parke: being commonly lesse then a forest, and not endued with so many liberties, as the courtes of *attachement*, *Swaine mote*, and *Iustice seate*: and yet of a larger compas, and stored with greater diuersity both of keepers and wilde beasts or game, then a park. And *Crompton* in his booke of *Iurisdiction. fo. 148.* saith, that a forest cannot be in the hands of a subiect, but it forthwith looseth the name, and becommeth a chase. and yet *fo. 197.* he saith, that a subiect may be lord and owner of a forest. which though it seeme a contrariety, yet be both his sayings, in some sort, true. For the king may giue or alienate a forest to a subiect: yet so,



as when it is once in the subiect, it leese the true property of a Forest: because that the courts, called the Iustice seate, the Swain mote, and Attachment, fourthwith doe vanish: none being able to make a Lord chiefe Iustice in Eyre of the Forest, but the king: as *M. Manwood* well sheweth *parte 2.* of his Forest lawes, *cap. 3. & 4.* And yet it may be granted in so large a manner, that there may be Attachment and Swainmote, and a court equiuallent to a Iustice seat, as appeareth by him in the same chapter, *num. 3.* So that a chase differeth from a Forest in this, because it may be in the hands of a subiect, which a Forest in his proper & true nature cannot: and from a Parke, in that that it is not inclosed, and hath not onely a larger compasse, and more store of game, but of Keepers also and ouerseers. See *Forest.*

*Challenge* (*calumnia*) commeth of the French (*chalanger*, *i. sibi assere*) and is vsed in the commo lawe for an exception taken either against persons or things: persons, as in assise to the Iurors, or any one or more of them: or in a case of felonie by the prisoner at the barre. *Smith de rep. Anglor. lib. 2. cap. 12. Briston. ca. 52. Bracton lib. 2. tract. 2. cap. 22.* Against things, as a declaration, *old nm. br. fol. 76.* Challenge

made to the Iurours, is either made to the array, or to the polles. Challenge to the array is, when the whole number is excepted against, as partially empaneled: challenge to or by the polle, when some one, or more are excepted against, as not indifferent. *Termes of the law.* Challenge to the Iurours, is also diuided into Challenge principall, and Challenge *per* cause. *i. vpon* cause or reason. Challenge principall (otherwise by *Stamf. pl. cor. fol. 157. & 158.* called (peremptorie) is that, which the lawe alloweth without cause alledged or farther examination. *Lamberd. Erenar. lib. 4. cap. 14.* as a prisoner at the barre, arraigned vpon felonie, may peremptorily challenge to the number of 20. one after another, of the Iurie empaneled vpon him, alledging no cause, but his owne dislike: and they shall be still put off, and new taken in their places. But in case of high treason no Challenge peremptorie is allowed, *an. 33. H. 8. cap. 23. Forrescue* saith, that a prisoner in this case may challenge, 35. men *c. 27.* but that law was abridged by *anno 25. H. 8. cap. 3.* I cannot here omit to note some difference, that (in mine opinion) I obserue betweene Challenge principall, and Challenge peremptorie, finding peremptorie

to be vsed onely in maters criminall, and barely without cause alledged more then the prisoners owne phantasie, *Spannf. pl. cor. fol. 124.* but principall in ciuill actions for the most part, and with naming of some such cause of exception, as being found true, the lawe alloweth without farder scanning. For example: if either partie say, that one of the Iurors is the sonne, brother, cousin, or tenent to the other, or espoused his daughter, this is exception good and strong enough (if it be true) without farder examination of the parties credit. And how farre this challenge vpon kinred reacheth, you haue a notable example, in *Plowden, case Vernon.* against *Manners. fol. 425.* Also in the plee of the death of a man, and in euery action reall, as also euery action personall, where the debt or dammages amount to 40. meiks, it is a good challenge to any man, that he cannot dispend 40. shillings by the yeare of Freehold, *anno 11. H. 7. cap. 21.* and Termes of the lawe, *verbo Challenge.* The ground of this challenge you may see farder in *Fleta lib. 4. cap. 8.* Challenge vpon reason or cause is, when the partie doth alledge some such exception against one or more of the Iurors, as is not forthwith sufficient vpon acknowledgement

of the truth thereof, but rather arbitrabl and considerable by the rest of the Iurors: as, for example: if the sonne of the Iuror haue married or espoused the daughter of the aduerse partie. Termes of lawe, *ubi supra.* This challenge *per cause*, seemeth to be tearmed by *Kitchin, challenge for fauour, fol. 92.* or rather Challenge for fauour is said there to be one species of challenge *per cause*: where you may read what challenges be commonly accounted principall, and what not. See the new booke of Entries, *verbo, Challenge.* and the old *nat. br. fol. 158. & 159.* That this word (*challenge*) is long sithence latined by the word (*calumniu*) appeareth by *Bracton. lib. 3. tract. 2. cap. 18. & li. 4. tract. 3. cap. 6. & lib. 5. cap. 6.* But I doubt, *Priscian* will neuer forgiue him that first strooke this blowe at him. Of challenge you may farder read *Fleta. lib. 1. cap. 32. §. Ad quem diem, & seqq.*

*Chamberdekins*, are Irish beggers, *anno 1. H. 5. cap. 8.*

*Chamberer*, is vsed for a chamber maide, *anno 33. H. 8. cap. 21.*

*Chamberlaine* (*camerarius vel chamberlingus*) cometh of the French (*chambellan. i. cubicularius, vel prefectus cubiculi.*) It is diuersly vsed in our Chronicles, Lawes, and Statutes: as Lord



great Chamberlaine of England, Lord Chamberlain of the kings house, the kings Chamberlaine, anno 13. Ed. 1. cap. 41. anno 17. R. 2. cap. 6. to whose office it especially appertaineth to looke to the kings chambers and wardrobe, and to gouerne the vnder ministers belonging vnto the same. *Fleta lib. 2. cap. 6. & 7.* Chamberlaine of any of the kings courts, anno 7. Ed. 6. cap. 1. Chamberlaine of the Exchequer, anno 51. H. 3. stat. 5. & anno. 10. Ed. 3. cap. 11. & anno 14. eiusdem. cap. 14. & anno 26. H. 8. cap. 2. Chamberlaine of north Wales, *Stow. pag. 641.* Chamberlaine of Chester. *Cromptons iurisd. fol. 7.* This Officer is commonly the receiuer of all rents and reuenues belonging to that person or citie, whereunto he is chamberlaine. v. *Fletam li. 2. cap. 70. §. Si autem.* The Latine word seemeth to expresse the function of this officer. For (*camerarius dicitur à camera. i. testudine sive fornice: quia custodit pecunias quæ in cameris precipue reservantur. Ouyphrius de interpret. vocum ecclesiasticarum.* It seemeth to be borrowed from the Feudists, who define the word (*camera*) thus: *Camera est locus in quem thesaurus colligitur, vel concludere in quo pecunia reservatur. Zasius de feudis. part. 4. num. 7. and Peregrinus de iure fisci. lib. 6. tit. 3.* saith, that

*camerarius vel camberlingus (quæ quæstorem antiqui appellarunt,) in rebus fisci primum locum tenet, quia thesaurarius & custos est publicæ pecunie. Dant officium hoc principibus fuisse nonnulli senserunt.* There be two officers of this name in the kings Exchequer, who were wont to keepe a controlment of the pels of receipt and exitus, & kept certaine keyes of the treasure cofers, which is not now in vse. They keepe the keyes of the Treasurie, where the leagues of the Kings predecessors, and diuers auncient bookes doe remaine. There is mention of this officer, in the Statute anno 34. & 35. H. 8. cap. 16. There be also vnder-chamberlaines of the Exchequer, which see in *Vnder-chamberlaine.*

*Champartie, (cambipartita) aliàs champertie*, seemeth to come from the french (*champart. i. vectigal*) and signifieth, in our common lawe, a maintenance of any man in his suit depending, vpon condition to haue part of the thing (be it lands or goods) when it is recovered. *Fitzb. nat. br. fo. 171.* and *champertours* be they, that moue ples or suites, or cause to be moued, either by their owne procurement, or by other; and perseyew at their proper colts, for to haue part of the land in variance, or part of the gaines. anno. 33. Ed. 1. stat. 2. in fine.

*fine.* Whereunto adde the third statut made the same yeare. This seemeth to haue bene an auncient fault in our realme. For notwithstanding these former statutes, and a forme of writ framed vnto them, yet *anno. 4. Ed. 3. ca. 11.* it was againe inacted, that whereas the former statute provided redresse for this in the kings bench onely (which in those dayes folowed the court) from thence forth it should be lawfull for Iustices of the commonplees likewise, and Iustices of assises in their circuits, to inquire, heare, and determine this and such like cases, as well at the suite of the king, as of the party. How farre this writ extendeth, and the diuers formes thereof, applied to seuerall cases, see *Fitzh. nat. br. fo. 171.* and the *Register orig. fo. 183.* and the new booke of entrise. *verbo. Champertie.* Euery *champertie* employeth maintenance. *Cromptons iuris fo. 39.* See also his Iustice of peace. *fo. 155. b. & c.* These with the Romans were called *redemptores litium, qui se, quotidianas lites mercantur, aut qui partem litis pacificantur. l. si remunerandi. §. Maurus. π. Mandati. l. si contra. §. l. per diuersas. Co. eodem. 13.*

*Champion, (campio)* is thus defined by *Hotoman, in verbis fœdalis.* *Campio est certator pro alio datus in duello: a campo dictus, qui*

*circus erat decertantibus definitus.* In our common lawe, it is taken no lesse for him that trieth the combat in his owne case, then for him that fighteth in the place or quarell of another. *Bracton li. 3. tracta. 2. ca. 21. nu 4.* who also seemeth to vse this word for such, as hould by sergeanty, or some service, of another, as: *capiones faciunt homagium domino suo. li. 2. ca. 35.* Of this reade more in *Battell and Combat. 30.*

*Chanceler, (cancellarius)* cometh of the trench (*chancelier*) *Vincentius Lupanus de magistratibus Francorum* saith, that (*cancellarius*) is no latine word: how be it he citeth diuers latine writers that doe vse it. With him agreeth that excellent man *Terrus Pitheus, libro. 2. aduersariorum. ca. 12.* and whereas *Lupanus* would deriue it from the verb (*cancello*) *Pitheus* confesseth, he hath good colour for his opinion, though he thinke it not found; and therefore rather deduceth it (*a cancellis*). (*Cancellare*) is (*litteras vel scriptum linea per medium ducta diuinare*) and seemeth of it selfe likewise to be deriued (*a cancellis*) which signifie all one with (*αὐχάνης*) in greeke, which we in our tong call a letis: that is, a thing made of woode or iron barrs laide crosse waies one ouer another, so that a man may see through



them in and out. And it is to be thought, that iudgement seates in old time, were compassed in with those barres, being founde most necessary to defend the iudges and other officers from the presse of the multitude, and and yet neuer the more to hinder any mans view, that had a desire or cause to obserue what was done. *Cancellarius* at the first by the opinion of *Lupanus*, signified the registers or actuaries in court, (*grapharios sc: qui conscribendis & excipendis iudicium artis dant operam*) *Publius* saith, they were such as we now call (*Secretarios*) But this name in our daies is greatly advanced, and not onely in other kingdomes, but in ours also, is giuen to him, that is the cheife man for mater of iustice (in priuate causes especially) next vnto the prince. For whereas all other iustices in our common wealth, are tied to the lawe, and may not swerue from it in iudgement: the Chanceler hath in this the kings absolute power, to moderate and temper the written lawe, and subiecteth himselfe onely to the lawe of nature and conscience, ordering all things *iuxta equum & bonum*. And therefore *Stawford* in his *Prerogative*. ca. 20. fo. 65. saith, that the Chanceler hath two powers: one absolute, the other ordinary: mea-

ning that though by his ordinary power in some cases, he must obserue the forme of proceeding, as other ordinarie Iudges: yet that in his absolute power he is not limited by the written law, but by conscience and equitie, according to the circumstances of the mater in question. But how long he hath had this power, some would doubt. For *Polidorus Virgilius*, lib. 9. *historia Anglica*. hath these words of *William* the Conqueror: *Instituit item Scribarum Collegium, qui diplomata scriberent, & eius Collegii magistrum vocabat Cancellarium, qui paulatim supremus factus est Magistratus, qualis hodie habetur*. And see *Fleta*, lib. 2. cap. 13. This high Officer, seemeth to be derived from *France* vnto vs, as many other Officers and vsages be. For of this thus writeth *Boerius* in his *Traetate De authoritat. Magni Concilii*. num. 8. *Consistorio Francie post Principem Dominus Francie Cancellarius, cui velut excelsum iudicii tribunal hoc in regno (sub Principe tamen nostro) moderanti, sigillumq; authenticum, quo sine publicis & patribus regis literis nullae fides adhibetur, liberam administrationem habenti, omnes & singuli regu iusticiarii, quocunque nomine nuncupentur, ac quavis autoritate funguntur, eo inferiores sunt. Et merito: Succedit enim in questoris locum, &c.*

He that beareth this magistracie, is called the Chancellor of England. *anno 7. R. 2. cap. 14.* and by the Statute *anno 5. Eliz. cap. 18.* the Lord Chancellor and Keeper haue all one power. Note farther that diuers inferior Officers, are called Chancellors, as Chancellor of the Exchequer. *an. 25. H. 8. cap. 16.* whose office hath bene thought by many, to haue bene created for the qualifying of extremities in the Exchequer. He sitteth in the court, and in the Exchequer chamber, and with the rest of the court ordereth things to the kings best benefit: he is alwaies in commission with the Lord Treasurer for the letting of the lands that came to the crowne by the dissolution of Abbeyes: and hath by priuie seale from the king, power with others to compound for forfeitures of bonds, and forfeitures vpon penall statutes. He hath also much to doe in the reueneue come by the dissolution and first frutes, as appeareth by the acts of vniing them to the Crowne. Chancellor of the Duchie of Lancaster, *anno 3. Ed. 6. cap. 1. & an. 5. eiusdem. cap. 26.* whose office is principall in that court to iudge and determine all controuersies betweene the king and his tenents of the Duchie land, and otherwise to direct all the kings affaires belonging to that

court. Chancellor of the Order. 1. of the Garter, *Stones annals pag. 706.* Chancellor of the Vniuersity, *anno 9. H. 5. cap. 8. & anno 2. H. 6. cap. 8.* Chaunceler of the court of Augmentations, *anno 27. H. 8. cap. 27. & anno 32. eiusdem. cap. 20. & anno 33. eiusd. cap. 39.* Chaunceler of the first frutes, *anno 32. H. 8. cap. 45.* Chaunceler of courts, *anno 32. H. 8. cap. 28.* Chaunceler of the Diocesse, *anno 32. H. 8. cap. 15.*

Chancerie (*cancellaria*) is the court of equite and conscience, moderating the rigour of other courtes, that are more strenghtly tyed to the letter of the lawe, whereof the Lord Chancellor of England is the chiefe Iudge. *Cromptons iurisd. fol. 41.* or else the Lord Keeper of the great Seale, sithence the statute 5. *Eliz. cap. 18.* It taketh the name from the Chaunceler, as *M. Camden* noteth in his *Britannia, pag. 114. in meo.* The Officers belonging to this court, are (as is abouesaid) the Lord Chaunceler or Keeper of the broad Seale, twelue Masters of the Chancerie, whereof the Master of the rolles is one and the chiefe, the fixe Clerkes, the Examiners, a Sergeant at armes, the Marshall, and cryer of the court, the clerks of the courts, otherwise called Confraters, the clerkes of the petie bagge, the clerke of the crowne, the



clerk of the hanaper, the proto-notary or register, the controller of the hanaper, the clerk of appeales, the sealer, the chafe waxe, the clerke of the faculties, the clerk of the patents, clerk of the starre chamber, clerk of presentations, clerk of dismissions, clerk of licenses to alienate, clerkes of the enrolments, clerk of the protections, clerk of the court of wards, clerk of the subpenaes, which see described in their places.

*Chapell*, (*capella*) commeth of the French (*chapelle*. i. *adicula*) and is of 2. sorts, either adioining to a Church, as a parcel of the same, which men of worth doe build, *ut ibidem familiaria sepulchra sibi constituent*, to the vse of the Romans. l. 5. x. *de religio*. or els separate from the mother church, where the parish is wide, and is commonly called a chappell of ease: because it is builded for the ease of one or more parishioners that dwell ouer farre from the Church, and is serued by some inferiour curate provided at the charge of the rector, or of them that haue benefite by it, as the composition or custome is. Whence the word is deriued the *Canonists* differ in opinion. *Rebuffus de pacif. posses. m. 104.* saying, that some take it (*à capiendò laicos*) others (*à capra*) because it representeth those

cotages, which men were wont to couer ouer with goates skins. *Petrus Gregorius in suo syntagma. te. li. 15. ca. 29.* hath these words of this thing: *Capellanus à capellania & capella, cui præsicitur, nominatur: item ab officio seu beneficio & capellania. Capella aliquibus dicta, quasi capiens laicos seu populos, vel capiens laudem vel secundum prepositum, a cappa Dni Martini, aut a caprinis pellibus, quibus olim altaria tegebantur secundum Archidiaconum. Arbitratur & a simplici tecto, quo oratorium carapestre operitur, lateribus undique patentibus & parulis. Tamen enim Gallis simpliciter dicitur (chapelle) a capite. Unde & formata aliqua nomina (chapeau, cape, &c) Aut capella locus qui minoris spatii sit quam ecclesia, quod tot homines non capiat, ut ecclesia. Ita altare capella est. ca. quæstum, & capenult. i. quæst. 3. Iohan. Andreas. in ca. i. de success. ab intesta. & prebenda cum onere quotidie celebrandi sacram liturgiam. ca. significatum. 11. de prebend. & oratorium. ca. auctoritate: de privilegiis. in 6. quod in eo loco orationes non alie res profane peragi debeant. ca. pen. & fina. 42. distinct. The same author in his booke *de beneficiis. ca. 11. m. 10.* hath these words: *Dicti porro primitus capellani, a cappa Sancti Martini, quam Reges Francorum ob adiutorium in preliis solebant secum habere: quam ferent-**

tes & custodientes cum ceteris sanctorum reliquiis clerici, capellani caperunt vocari. ut omnia refert Valerius Strabo. Abbas Augensis. ca. fina. de incrementis rerum ecclesiastica.

There is of these chapels one kinde called a free chapell, which seemeth to be such as hath maintenance perpetuall toward the vphoulding thereof, and wages of the curate, by some land charitably bestowed on it, without the charge of the rector or parishe. anno. 37. H. 8. cap. 4. anno. 1. Ed. 6. ca. 14.

Chapellaine, (*capellanus*) is he that performeth diuine seruice in a chappell. and therefore in our common law, it is vsed most ordinarily for him, that is depending vpon the king, or other man of worth, for the instruction of him and his family, the executing of prayers and preaching in his priuate house, where commonly they haue a chappell for that purpose. as anno. 21. H. 8. ca. 13. where it is set downe what persons may priuledge one or moe chaplaines, to discontinue from their benefices, for their particular seruice.

Chapters, (*capitula*) commeth of the French (*chapitre. 1. capit libris*) It signifieth in our common lawe, a summary or content of such matters, as are to be inquired of or presented before Iustices

in Eyre, Iustices of assise, or of peace in their sessions. Soe is it vsed., anno. 3. Ed. 1. ca. 27. in these words: and that no clerke of any Iustice, Escheatour, or Commissioner in Eyre, shall take any thing for deliuering chapters, but onely clerkes of Iustices in their circuits: and againe anno. 13. eiusdem. ca. 10. in these words: and when the time commeth, the shyreue shall certifie the chapters before the Iustices in Eyre, how many writs he hath and what &c. Britton likewise vseth the same worde in this signification. ca. 3. Chapters or (*capitula*) be now called articles most ordinarily, and are deliuered as well by the mouth of the Iustice in his charge, as by the clerks in wrighting to the enquest; whereas in auncient times (as appeareth by Britton and Britton) they were after an exhortation giuen by the Iustices for the good obseruation of the lawes and kings peace, first red distinctly and opely in the whole court, and then deliuered in wrighting to the grand enquest. And the same order doth M. Lamberd wish to be kept in these daies also. Eirenar. li. 4. ca. 4. pa. 393. Horn in his mirrour of Iustices calleth them articles, and expresseth what they were wont to containe. li. 3. ca. des articles in Eyre. An exâple of these chapters



chapters or articles, you haue in the booke of assises, fo. 138. nu. 44. as also in Roger Hoveden, parta poster. suorum annal. in Richardo primo. fo. 423.

*Chapter. (capitulum)* signifieth in our common lawe (as in the canon lawe, whence it is borrowed) *congregationem clericorum in ecclesia cathedrali, consensuali, regulari, vel collegiata*: and in another signification, *locum in quo sunt communes tractatus collegiatorum*. It hath other significations, though not greatly worth the repeating in this place, which you may read in Linwods provincials. glos. in ca. quia in continentie. constitutionibus. verb. Capitulis. Why this collegiat companie should be called (*capitulum*) of the canonists, a man may make a question: and for answer, it may be said, that it is metaphorically so termed the word originally signifying a litle head. For this companie or corporation is a kinde of head, not onely to rule and gouerne the dioces in the vacatiō of the Bishoprick, but also in many things to aduise the Bishop, when the See is full. See Panormitan. in ca. capitulum. extra de rescriptis.

*Charta perdonationis se defendendo*, is the forme of a pardon for slaying another in a mans owne defence. Register. original. fo. 287.

*Charta perdonationis utlagaria*, is the forme of a pardon for a man that is outlawed. Reg. orig. fo. 288. 388.

*Charter (charta)* commeth of the French (*chartres*. i. instrumenta) It is taken in our lawe, for written evidence of things done betweene man and man, whereof Bracton lib. 2. ca. 16. num. 1. saith thus: *Fiunt aliquando donationes in scriptis, sicut in chartis, ad perpetuam rei memoriam, propter breuem hominum vitam, &c.* & a litle after: nu. 12. *Et sciendum, quod chartarū alia regia, alia privatorum; & regiarum alia priuata, alia communis, & alia vniuersalis. Item privatorum, alia de puro feoffamento & simplici, alia de feoffamento condicionali sive conuentionali: & secundum omnia genera feoffamentorum fieri potest. Item privatorum alia de recognitiōe pura vel condicionali. Item alia de quiete-clamantia: Item alia de confirmatione, &c.* and so thorough the chapter. Britton likewise in his 39. chapter, diuideth charters into the charters of the King, and charters of priuate persons. Charters of the King are those, whereby the King passeth any graunt to any person or more, or to any bodie politique: as a charter of exemption that a man shall not be empaneled vpon any Iurie. Kitchen. fo. 114. & fo. 177. charter of

of pardon, whereby a man is forgiven a felonie, or other offence committed against the Kings crowne and dignitie. *Broke. tit. charter of pardon.* Charter of the forest, wherein the lawes of the forest are comprised. *anno. 9. H. 3. Cromptons Jurisd. fo. 147. Pupilla oculi. parte. 5. ca. 22. Mamwood. parte. 1. of his forest lawes. fo. i. where he setteth downe the charters of Canutus. and fo. 17. where he hath set downe that which was made. anno 9. H. 3. with the charter of the forest which we vse, M. Skene saith, that the lawes of the forest in Scotland doe agree. de verbo. signif. verbo. Venison. Charter of land. *Broke. eodem titulo.* That which we call a charter, the Lombards in *libris feudalibus*, call *præceptum* (*præceptionem*) *Hotama. verbo præceptum. in verbis feudalibus.* Of these charters you haue also a long discourse in *Fleta. li. 3. ca. 14.* who expoundeth euery substantiall part of a deede of gift particularly in order.*

*Charter land*, (*terra per chartam*) is such as a man holdeth by charter, that is, by euidence in writing; otherwise called freehold. *anno 19. H. 7. ca. 13. and Kitchen. fo. 86. & these in the Saxons time, were wont to be called (backland) Idem. fo. 89. and Lamberd in his explication of Saxon*

words. *verbo Terra ex scripto* which was held, as he therewith saith, with more commodious & easier conditions, then (*folkland*) was: that is land held without writing. And the reason he giueth, because that was *hereditaria, libera, atq; immunis*: whereas *fundus sine scripto consumpsitabat annum, atq; officiorum quadam seruitute est obligatus.* Prior *et viri plerumq; nobiles atque ingenui, posteriorem rustici ferè & pagani possidebant.* *Illam nos vulgo freehold & per chartam, hanc ad voluntatem domini appellamus.* Thus farre M. Lamberd.

*Charter partie* (*charta partita*) is nothing but that which we call a paire of indentures, conteining the covenants and agreements made betweene merchants, or sea faring men touching their marine affaires. *anno 32. H. 8. cap. 14.*

*Chartis reddendis*, is a writ, which lyeth against him that hath charters of seofment deliuered him to be kept, and refuseth to deliuer them. *old. nat. br. fo. 66. Register orig. fo. 159.*

*Chase.* See *Chace.*

*Chatell.* See *Catell.*

*Chance medley* (*Infortuni-um*) cometh of 2. french words (*chance. i. lapsus*) and (*mesler. i. miscere*) It signifieth in our common lawe, the casuall slaughter of a man, not altogether without



the fault of the slayer. *Stamf. pl. cor. li. 1. ca. 8.* calleth it *homicide* by misadventure, *West.* calleth it *homicide mixt. parte. 2. symbol. titulo Indictments. sect. 50.* and there defineth it thus: *Homicide mixt* is, when the killers ignorance or negligence is ioyned with the chaunce: as if a man loppe trees by an high way side, by which many vsually trauell, and cast doune a bowe, not giuing warning to take heede thereof, by which bowe one passing by is slaine: In which case he offendeth, because he gaue noe warning, that the party might haue taken heede to himselfe. See *Skene de verbo: signifi. verbo Melletum.*

*Chaugeour*, is an officer belonging to the Kings mint, whose function seemeth especially to consist, in exchanging coine for gold or siluer in the masse, brought in by merchants or others. *anno 2. H. 6. ca. 12.*

*Chawntery*, (*cantaria*) is a Church or chapell endewed with lands or other yearely renewe, for the maintenance of one or moe priests, daily to sing masse for the soules of the donours, and such others, as they doe appointe. *anno 37. H. 8. ca. 4. anno 1. Fd. 6. ca. 14.*

*Check rolle*, seemeth to be a rolle or booke, that containeth the names of such, as are atten-

dants and in pay to great personages, as their household servants. It is otherwise called the chequer rolle. *anno 24. H. 8. ca. 13. anno 3. H. 7. ca. 13.* & seemeth to haue one etymologie with eschequer. Which see.

*Cheuage*, (*chenagium*) cometh of the French (*chef. i. caput*) It signifieth with vs, a summe of money paid by villeins to their Lords, in acknowledgment of their slauerie. Whereof *Bracton li. 1. ca. 10.* saith thus: *chevadium dicitur recognitio in signum subiectionis & domini de capite suo.* It seemeth also to be vsed, for a summe of a mony, yearely giuen by a man to another of might & power, for his avowement, maintenance, and protection, as to their head or leader. *M. Lamberds li. 2. ca. 5. erenarch.* writeth it (*chivage*) or rather (*chiefage*)

*Chevisance*, cometh of the French (*chevir. i. venir a chef de de quelque chose*) to come to the head or end of a busines, to perfect a mater. This word is vsed for bargayning. *anno 37. H. 8. ca. 9. & anno 13. Eliza. ca. 5. & 8. an. 10. R. 2. cap. 1. & anno 3. H. 7. cap. 5.*

*Chief.* See *Capite.*

*Chiefe pledge* (*plegius, vel vas capitalis*) *an. 20. H. 6. ca. 8.* For the vnderstanding of this word, See *Borrowhead.*

*Childwit*; commeth of the Saxon word (*child*), and (*wit*) which some say, in that tongue, is a termination of certain words without signification, as (*dom*) in (*christendom*) or (*hood*) in (*childehood*) with vs. But for the signification of (*wit*) (see *Bloodwit*) *Childwit* signifieth a power to take a fine of your bondwoman begotten with child without your consent. *Rastall. expost. of words.*

*Chimin*, (*chiminus*) commeth from the French (*chemin. i. aditus, via*) and signifieth in our common lawe, a way. It is diuided into two sorts: the Kings high way, and a priuate way. *Kitchin. fo. 35.* The Kings highe way (*chiminus regius*) is that, by which the Kings subiects, and all others vnder his protection, haue free libertie to passe, though the propertie of the soyle of each side, where the way lieth, may perhaps belong to some priuate man. A way priuate is that, by which one man or more haue libertie to passe, either by prescription or by charter, through another mans ground. And this is diuided into *chymen* in *grosse*, and *chymen* *appendant*. *Kitchin. fo. 177.* *Chymen* in *grosse* is that way, which a man holdeth principally and solely in it selfe: *chymen* *appendant* is that, which a man hath adioyned to some o-

ther thing as appertinent thereto. For example, if a man hire a close or pasture, and couenāt for ingresse and egress to and from the said close, through some other ground, by the which otherwise he cannot passe. Or *chimin* in *grosse* may be that, which the Civilians call personall: as when one covenanteth for a way through another mans ground, for himselfe and his heires: *chimin* *appendant*, on the other side, may be that which they call reall: as when a man purchaseth a way through another mans ground, for such as doe or shall dwell in this or that house for euer, or be owners of such a maner.

*Chiminage*, (*chiminagium*) signifieth a tolle for wayfarage thorough the forest. *Cromptons. Iurisd. fo. 189.* and *Mannwood. parte. 1. of his forest lawes. pa. 86.* See *Chimin*. The Feudists call it, *pedagium*. See *Chimin*.

*Chirographer of fines* (*chirographus finium & concordiarum*) commeth of the greeke (*χειρογραφον*) which signifieth a writing of a mans owne hand, whereby he acknowledgeth a debt to another. It signifieth in our common lawe, him in the common bench office, that ingrosseth fines in that court acknowledged, into a perpetuall record, after they be acknow-



ledged, and fully passed by those officers, by whome they are formerly examined; and that writeth and deliuereth the indentures of them vnto the party. *anno. 2. H. 3. ca. 8. and. West Symbol: parte. 2. titulo. fines. sect. 114. & 129. Fitzh. nat. br. fo. 147. A.* This officer also maketh two indentures, one for the buier, another for the seller; and maketh one other indented peece, containing also the effect of the fine, which he deliuereth ouer to the *custos breuium*, that is called the foote of the fine. The *Chirographer* also, or his deputy, doth proclaime all the fines in the court euery tearme, according to the Statute; and then repaying to the office of the *custos breuium*, there indorseth the proclamations vpo the backside of the foot thereof: and alwaie keepeth the writ of covenant, as also the note of the fine.

**Cbruage.** See *Cheuage*.

**Chivalrie,** (*seruitium militare*) commeth of the French (*chevalier. i. eques*) and signifieth in our common lawe, a tenure of land by knights seruice. For the better vnderstanding whereof, it is to be knowne, that there is noe land, but is holden immediatly or immediatly of the Crowne, by some seruice or other; and therefore are all our free-houlds, that

are to vs and our heires, called (*fensile*) feeſe, as proceeding fro the benefit of the King, for some small yearely rent, and the performance of such seruices, as originally were laid vpon the land at the donation thereof. For as the king gaue to the great Nobles his immediat tenents, large possessions for euer, to hold of him for this or that rent and seruice; so they againe in time parcelled out to such as they liked, their lands so receiued of the kings bountie, for rents and seruices, as they thought good. And these seruices are all by *Littleton* diuided into two sorts: chivalry, and socage. The one is martiall and military, the other clownish and rusticall. Chivalrie therefore is a tenure or seruice, whereby the tenant is bound to performe some noble or military office vnto his Lord, and is of two sorts: either regall, that is, such as may hold onely of the king: or such as may also hold of a common person, as well as of the king. That which may hold onely of the King, is properly called *seruitium*, or *sergeantia*: and is againe diuided into *grand* or *petit*, i. great or small. Great, commonly called *grand sergeantie*, is that where one holdeth lands of the King by seruice, which hee ought to doe in his own person vnto him: as to beare the kings baner,

baner or his speare, or to leade his hoast, or to be his Marshall, or to blow a horne, when he seeth his enemies inuade the land, or to find a man at armes to fight within the foure Sease, or else to do it himselfe, or to beare the kings sword before him at his coronation, or at that day to be his sewer, caruer, butler, or chamberlaine. *Littleton tit. Sergeantie. Petit Sergeantie*, is where a man holdeth land of the king, to yeeld him yearly some small thing toward his warres, as a sword, dagger, bowe, knife, speare, paire of gloves of maile, a paire of spurs, or such like. *Littleton. titulo petit Sergeanty. Chivalry*, that may hould of a common person as well as of the king, is called (*scutagium*) *escuage*, that is seruice of the shield. And this is either vncertaine or certaine. *Escuage* vncertaine is likewise twofold: first, where the tenent by his tenure, is bounde to follow his lord going in person to the kings wars against his enemies, either him selfe, or to send a sufficient man in his place, there to be maintained at his cost so many daies, as were agreed vpon betweene the lord and his first tenent at the graunting of the fee. And the daies of such seruice seeme to haue bene rated by the quantity of the land so houlden:

as if it extend to a whole knights fee, then the tenent was bounde thus to follow his lord fourty dayes. And a knights fee, was so much land, as in those dayes was accounted a sufficient liuing for a knight: and that was 680 acres, as some opinion is, or 800 as others thinke: or 15 pounds *per annum. Camdens Brittan. pa. 110. in meo. S. Thomas Smyth sayeth, that census equestris is 40. poundes reuenew in free lands.* If the law extend but to halfe a knights fee, then the tenent is bounde to follow his lord, as a boue is said, but twenty dayes. If to a fourth part, then ten daies. *Fitzh. nat. br. fo. 83. C. & 84. C. E.* The other kinde of this escuage vncertaine is called castelward: where the tenent by his land is bound, either by him selfe, or by some other, to defend a castell, as often as it shall come to his course. *Escuage certaine*, is where the tenent is set at a certaine summe of money, to be paide in lieu of such vncertaine seruice, as that a man shall yearly pay for a Knights Fee, 20. shillings, *Stow annal. pag. 238.* for halfe a Knights Fee, tenne shillings, or some like rate. And this seruice, because it is drawne to a certaine rent, groweth to be of a mixt nature: not meere ly socage, for that it smelleth not of the plough, and yet socage in



effect: being now neither personall seruice, nor vncertaine, *Littleton, titulo Socage*. This tenure called chivalry, hath other conditions annexed vnto it; as homage, fealty, wardship, reliefe, and marriage. *Bracton. li. 2. ca. 35.* which what they signifie, looke in their places. *Chivalry* is either generall or especiall. *Dier. fo. 161. nu. 47.* Generall seemeth to be, where only it is said in the feofment, that the tenant houldeth *per seruitium militare*, without any specification of sergeanty, escuage, &c. Speciall, that which is declared particularly what kinde of knights seruice he houldeth by.

*Chorall*, (*choralis*) seemeth to be any that by vertue of any of the orders of Clergie, was in auncient time admitted, to sit and serue God in the Quier, which in Latine is termed *Chorus*.

*Chose*, (*res*) is the French word as generall as (*thing*) is with vs. It is in the common lawe, vsed with diuers epithites worthie the interpretation: as, *chose locall*, is such a thing as is annexed to a place. For example: a mill is *chose locall*, *Kitchin fol. 18.* *Chose transitorie*, in the same place seemeth to bee that thing which is moueable, and may be taken away, or caried from place

to place. *Chose in action*, is a thing incorporeall, and onely a right: as an annuities, an obligation of debt, a covenant, or vouchier by warrantie. *Broke titulo. Chose in action.* And it seemeth, that *chose in action*, may be also called *chose in suspense*, because it hath no reall existence or being, neither can be properly sayde to bee in our possession. *Broke ibid.*

*Churchwardens* (*Ecclesiarum gardiani*) be Officers yearly chosen, by the consent of the Minister and parishioners, according to the custome of euery seuerall place, to looke to the church, church-yard, and such things, as belong to both, and to obserue the behauiours of their parishioners for such faults as appertaine to the iurisdiction or censure of the court ecclesiasticall. These be a kind of corporation, inabled by lawe, to sue for any thing belonging to their church, or poore of their parish. See *Lamberd* in his pamphlet of the duty of *Churchwardens*.

*Churchesetter*, is a word that I find in *Fleta. lib. 1. cap. 47. in fine.* whereof he thus writeth: *Certam mensuram bladi tritici significat, quam quilibet olim sancte Ecclesie die Sancti Martini tempore tam Britonum quam Anglorum contribuerunt. Plures tamen magnates poss.*

*Romanorum adventum, illam contributionem secundum veterem legem Moyſi nomine primitiarum dabant: prout in brevi regis Knuti, ad ſummum Pontificem tranſmiſſo, continetur, in quo illam contributionem, (ekirchſed) appellant, quaſi ſemen Eccleſie.*

*Cinamom (cinamonum)* is a tree, whereof the barke is knowne to be a pleaſant, comfortable, and medicinall ſpice, which you haue deſcribed in *Gerards Herball. lib. 3. cap. 142.* This is reckoned among garbleable ſpices, *an. 1. Tac. cap. 19.*

*Cinque portes (quinque portus)* be thoſe ſpeciall hauens, that lye toward *Fraunce*, and therfore haue bene thought by our kings, from time to time, to be ſuch, as ought moſt vigilantly to be obſerued againſt inuaſion. In which reſpect, the places where they be, haue an eſpeciall gouernor or keeper, called by his office Lord Warden of the Cinque ports: and diuers priuiledges graunted vnto them, as a particular iuriſdiction, their Warden hauing the authoritie of an Admirall among them, and ſending out writs in his owne name. *Crompton* in his Iuriſdictions, fol. 28. nameth the Cinque ports, *Douer, Sandwich, Rye, Haſting, Wincheſſea, Ramney, Haſbe*: whereof ſome, becauſe the number exceedeth ſiue, muſt either be added to the firſt inſti-

tution, by ſome later graunt, or be accompted as appendents to ſome of the reſt. See *Gardens of the Cinque ports*: and the Statute anno 32. *H. 8. cap. 48.*

*Circuit of action*, (*circuitus actionis*) is a longer courſe of proceeding, to recouer the thing ſued for, then is needfull. See the new *Termes of lawe*.

*Circumſtantiis*, is a word of art, ſignifying the ſupply or making vp of the number of Iurors, (if any empaneled appeare not, or appearing, be chalenged by either partie) by adding vnto them ſo many other of thoſe that are preſent or ſtanding by, as will ſerue the turne, *v. ann. 35. H. 8. cap. 6. and anno 5. Elizab. cap. 25.*

*Citie (civitas)* commeth of the French (*cité*) and ſignifieth with vs, as it doth in other regions, ſuch a towne corporate, as hath a Biſhop and a cathedral church. For *Lucas de Penna lege unica, tituli, De Metropoli. Beryto. ti. 21. lib. 10. Cod.* hath theſe words: *Idem locus, vrbs, civitas, & oppidum appellatur. (Pro quo eſt etiam infra. De ſpectaculis. l. Nemo.) Civitas enim dicitur, quatenus cum iuſtitia & magistratuum ordine gubernatur, oppidum, quatenus eſt ibi copia incolarum: & vrbs, quatenus maris debito more cingitur. Propriè autem dici-*



*dicuntur civitas, quæ habet Episcopum.*  
*Supra de Episcop. & Cleri. l. Nul-*  
*li. Aliàs dicitur generaliter omnis*  
*habitatio plurimorum, quæ muro*  
*cingitur. . de verb. signif. lib. 2. &*  
*de penu leg. l. Nam quod. §. Si ita.*  
*Sed stricte loquendo, si Episcopo ca-*  
*ret, dicitur urbs. . de verb. signif.*  
*l. Pupillus. §. Oppidum, &c.* Yet  
*M. Crompton* in his Iurisdiccions,  
 where he reckoneth vp the ci-  
 ties, leaueth out *Elye*, though it  
 haue a bishop and a cathedrall  
 Church, and putteth in *Westmin-*  
*ster*, though now it haue no bi-  
 shop. And anno 35. *Eliz. 1. ca. 6.*  
*Westminster* is called a citie, anno  
 27. *eiusd. cap. 5.* Of the Statutes  
 not printed, it is alternatiuely  
 termed a citie or borow. It  
 appeareth by the Statute, 35. *H.*  
 8. *cap. 10.* that then there was a  
 bishop of *Westminster*. *Civitas*,  
 according to *Aristotle*, lib. 3.  
*politicorum. ca. pri.* is defined to be  
 a certaine or vniforme govern-  
 ment of the inhabitants. & *Cæ-*  
*sar civitatem vocat populum eodem*  
*iure utentem. Camd. Britan. pa.*  
 310. But this is the generall de-  
 finition of a common wealth,  
 and not of a city, at the least, as  
 we now a daies particularly take  
 it. For ouer and beside that  
 which s above saide, *Cassianus*  
*in consuetudi. Burg. pa. 15.* saith,  
 that France hath within the terri-  
 tories of it, 104. cities, and gi-  
 ueth reason of this his saying,

because there be there so many  
 seates of Archbishops and  
 bishops.

*Clack*, as to clack, force, and  
 bard, *aluis*, beard good wools.  
 anno. 8. *H. 6. ca. 22.* whereof the  
 first, *viz.* to clack wooll, is to cut  
 of the sheepes marke, which ma-  
 keth it to waigh lesse, and so yeld  
 the lesse custome to the king, to  
 force wooll, is to clip of the vp-  
 per and more heary part of it, to  
 bard or beard it, is to cut the  
 head and necke from the rest of  
 the fleece.

*Clamea admittenda in itinere per*  
*Attornatum*, is a writ whereby  
 the king commandeth the Iusti-  
 ces in eyre to admitte of ones  
 claime by Atturney, that is em-  
 ployed in the kings seruice, and  
 cannot come in his owne per-  
 son. *Regist. orig. fol. 19. b.*

*Clayme* (*clameum*) is a cha-  
 lenge of interest in any thing  
 that is in the possession of ano-  
 ther, or at the least out of his  
 owne: as, claime by charter,  
 clayme by descent, *old nat. br. fol.*  
 11. *Si dominus infra annum cla-*  
*meum qualitercunque apposuerit:*  
*Bracton. lib. 1. cap. 10.* See the de-  
 finition & diuers sorts of claime  
 in *Plowden. Casu Storrel. fol.*  
 359. a.

*Clarentius.* See *Herald.*

*Clergie* (*clerus, clericatus*) is di-  
 versly taken: sometime for the  
 whole number of those, that are

*de Clero domini*) of the Lords lot or share, as the tribe of *Leuy*. was in *Iudea*: some time for a plee to an indictment, or an appeale, and is by *Stamf. pl. cor. li. 2. ca. 41.* thus defined. Clergie is an auncient liberty of the church, which hath bene confirmed by diuers parlaments, and is, when a priest, or one within orders, is arraigned of felony, before a secular iudge, he may pray his clergie. which is as much, as if he prayed to be deliuered to his ordinarie, to purge him selfe of the offence objected. And this might be done in case of murder. *Coke. li. 4. fo. 46. a.* This liberty is mentioned in *articulis cleri. anno. 9. Ed. 2. ca. 16.* and what persons might haue their clergy, and what not, see *Stamf. pl. cor. li. 2. ca. 42. & 43.* Howbeit there be many statuts made since he writ that booke, whereby the benefite of clergy is abridged. as *anno. 8. El. ca. 4. anno. 14. eiusdem. ca. 5. anno. 18. eiusd. cap. 4. 6. 7. & anno 23. eiusd. cap. 2. a. 29. eiusd. c. 2. anno 31. eiusd. ca. 12. a. 39. eiusd. ca. 9. & ca. 15.* Of this see *Cromptons* Iustice of peace, fo. 102. 103. 104. 105. and *Lamberds Eirenarcha. li. 4. ca. 14. pa. 543.* And note by the way, that the auncient course of the law in this point of clergy, is much altered. For by the statute *anno. 18. Eliza. ca. 7.* clerks be no more deliuered to their

ordinaries to be purged, but now euery man, though not within orders, is put to reade at the barre, being founde guilty, and conuicted of such felonie as this benefite is still granted for: and so burnt in the hand and set free for the first time, if the ordinaries commissioner or depute standing by do say: (*legit ut clericus*) or otherwise suffereth death for his transgression.

*Clerico addmittendo*, is a writ directed to the bishop, for the admitting of a clerk to a benefice vpon a (*Ne admittas*) tryed & founde for the party that procureth the writ. *Regist. orig. fo. 31. 6.*

*Clerico capto per statum mercatorum, &c.* is a writ for the deliuey of a clerk out of prison, that is imprisoned vpon the breach of a statut merchant. *Register orig. fo. 147.*

*Clerico conuicto commissogaole in defectu ordinarij deliberando, &c.* is a writ for the deliuey of a clerk to his ordinary, that formerly was conuicted of felony, by reason his ordinary did not challenge him according to the priuiledge of clerks. *Register. orig. fo. 69. a.*

*Clerico infra sacros ordines constituto non elegendo in officium*, is a writ directed to the bayliffs, &c. that haue thrust a bayliwick or bedelship vpo one in holy orders, charging them to releafe him a-



gaine. Register orig. fo. 187. b.

*Clerk*, (*clericus*) hath two significations: one, as it is the title of him, that belongeth to the holy ministry of the church, that is (in these daies) either minister, or deacon, of what other degree or dignity soeuer: though according to former times, not only *sacerdotes* & *diaconi*, but also, *subdiaconi*, *cantores*, *acolyti*, *exorcista*, & *ostiarii* were within this account, as they be at this daye, where the canon law hath full power. And in this signification, a clerk is either relegious (otherwise called *regular*) or *secular*. anno. 4. H. 4. ca. 12. The other signification of this word, noteth those, that by their function or course of life, practise their penne in any court or other wise; as namely, the clerk of the rolles of parliament, clerks of the Chancery, and such like, whose peculiar offices I purpose to set downe in order, according to that knowledge that I could procure of them.

*Clerke of the parliament rolles*, (*clericus rotulorum Parliamenti*) is he that recordeth all things done in the high court of Parliament, and engrosseth them fairely into parchment rolles, for their better keeping to all posteritie. Of these there be two, one of the higher, another of the lower or common house, *Crompt-*

*ons Iuris*. fol. 4. & 8. Smith de rep. Anglor. pag. 38. See also *Vonels* booke touching the order of the Parliament.

*Clerke of the crowne in the chancery* (*clericus Corona in Cancellaria*) is an officer there, that by himselfe or his deputie, is continually to attend the Lord Chancellor, or Lord Keeper, for speciall matters of estate by commission, or the like, either immediately from his maiestie, or by order of his priuy counsell, as well ordinary as extraordinary. viz. commissions of lieutenancies, of Iustices errant, and of assises, of *oyer* and *terminer*; of gaol deliuey, of the peace, and such like, with their writs of association, and *dedimus potestatem*, for taking of oathes. Also all generall pardons vpon graunts of them at the kings coronation, or at a parliament. where he sitteth in the higher house at the Parliament time; the writs of parliament, with the names of knights and burgeses, which be to be returned into his office. He hath also the making of all speciall pardons, and writs of execution, vpon bonds of statute of the Staple forfeited: which was annexed to his office in the raigne of Queene Mary, in consideration of his continuall and chargeable attendance: both these before being common for

for euery courtitour, and clerk of court to make.

*Clerk of the Crowne* (*clericus Corone*) is a clerk or officer in the Kings bench, whose function is to frame, reade, and record all indictments against traitours, felons, and other offenders there arraigned vpon any publique crime. He is otherwise termed *Clerke of the Crowne office*. And *anno. 2. H. 4. ca. 10.* he is called clerk of the crowne of the kings bench.

*Clerk of the extreats* (*clericus extractorum*) is a clerk belonging to the exchequer, who termely receiueth the extreats out of the Lord treasurers remembrancer his office, and writeth them out to be leuied for the king. He also maketh ceduls of such summes extreated, as are to be discharged.

*Clerk of assise* (*clericus assise*) is he, that writeth all things judicially done by the Iustices of assise in their circuits. *Cromptons In-risd. fo. 227.*

*Clerke of the pele* (*clericus pelis*) is a clerk belonging to the exchequer, whose office is, to enter euery tellers bille into a parchment rolle called (*pellis receptorum*) and also to make another rolle of paiments, which is called (*pellis exarum*) where in he setteth downe, by what warrent the monie was paid.

*Clerk of the warrants* (*clericus warrantorum*) is an officer belonging to the court of common ples, which entreth all warrants of attorney for plantiffe and defendant, and enrolleth all deedes of indentures of bargain and sale, which are acknowledged in the court, or before any iudges out of the court. And he doth extreate into the exchequer, all issues, fines, and ameracements, which growe due to the king any way in that court, and hath a standing fee of ten pound of the king, for making the same extreats. See *Fitzh. nat. br. fo. 76. in prin.*

*Clerk of the petit bagge* (*clericus parua bagia*) is an officer of the chawncerie, of which sort there be three, and the master of the Roles their cheife. Their office is to record the returne of all inquisitions out of euerie shire, all liveries granted in the courte of wardes, *all ouster les mains*, to make all patents of customers, gawgers, contrrollers, and aulnegers, *all conge d' eslres* for Bishops, *all liberateis* vpon extents of statute staples, the recouerie of Recognisances forfeited, and all Elegits vpon them, the summons of the nobilitie, clergie, and burgeses to the Parliament; commissions directed to knights and other of euery shire for seassing of the subsidies. Writs for the



nominations of collectours for the fiftenthes, and all traverles vpon any office, bille or otherwise, and to recieue the money due to the king for the same. This officer is mentioned. *anno 33. H. 8. ca. 23.*

*Clerk of the Kings great wardrobe* (*clericus magna garderobe regis*) is an officer of the Kings house, that keepeth an account or Inventarie in writing, of all things belonging to the kings wardrobe. This officer is mentioned. *anno 1. Ed. 4. ca. 1.*

*Clerk of the market* (*clericus merketi*) is an officer of the kings house. *anno 1. Ed. 4. cap. 1. & anno 13. R. 2. ca. 4.* whose dutie is to take charge of the kings measures, and to keepe the standards of them, (that is) the examples of all the measures that ought to be through the land: as of elns, yards, lagens, as quarts, pottels, gallons, &c. of weights, bushels, and such like, and to see, that all measures in euerie place, be answerable vnto the said standard, *Flora. li. 2. ca. 8. 9. 10. 11. 12.* of which office, as also of our diuerfitie of weights and measures, you may there finde a treatise worth the reading. *Brisson* also in his 30. chapter saith in the Kings person, to this effect: we will that none haue measures in the realme but we our selues: but that every man take his mea-

asures and weights from our standards: and so goeth on with a tractat of this mater, that well sheweth the auncient law and practise in this poynt. Touching this officers dutie, you haue also a good statut. *anno 13. R. 2. cap. 4.*

*Clerk of the Kings silver* (*clericus argenti Regis*) is an officer belonging to the court of common ples, vnto whome euerie fine is brought, after it hath beene with the *custos breuium*, and by whome the effect of the writ of couenant is entred into a paper booke; and according to that note, all the fines of that terme are also recorded in the rolles of the court. And his entrie is in this forme: He putteth the Shire ouer the margen, and then saith. *A. B. dat domino regi dimidiam merkam* (or more, according to the value) *pro licentia concordandi. C. cum C. D. pro talibus terris, in tali villa, & habet chirographum per pacem admissum &c.*

*Clerk of the peace* (*clericus pacis*) is an officer belonging to the sessions of the peace. His dutie is, in the sessions to reade the endictments, to enrolle the acts, and drawe the proces: to record the proclamations of rates for servants wages, to enrolle the discharge of apprentices, to keepe the counterpaine of the indenture of armour, to keepe the

the register booke of licences, giuen to badgers and laders of corne, & of those that are licensed to shoote in guns, & to certify into the kings bench transcripts of indictments, outlawries, attainders, and convictions had before the Iustices of the peace, within the time limited by statute. *Lamberdscirenarscha. li. 4. ca. 3. fo. 379.*

*Clerk of the signes (clericus signetti)* is an officer attendant continually on his maiesties principall secretary, who alwaies hath the custodie of the priuie signet, as well for sealing his maiesties priuate letters, as also such graunts as passe his maiesties hands by bill assigned. Of these there be foure that attend in their course, and haue their diet at the Secretaries table. More largely you may reade of their office, in the statute made *anno 27. H. 8. ca. 11.*

*Clerk of the priuie seale (clericus priuati sigilli)* is an officer (whereof there be foure in number) that attendeth the Lord keeper of the priuie seale, or if there be none such, vpon the principal Secretary, writing and making out all things that be sent by warrant from the signet to the priuie seale, and are to be passed to the great seale: as also to make out (as they are termed) priuie seales, vpon any

especiall occasion of his maiesties affaires; as for loane of money, or such like. Of this officer, and his function, you may read the statute *anno 27. H. 8. ca. 11.* He that is in these daies called the Lord keeper of the priuie seale, seemeth in auncient time to haue beene called clerke of the priuie seale, and to haue beene reckoned in the number of the great officers of the realme. Read the statute *anno 12. R. 2. ca. 11.*

*Clerk of the Iuries or iurata writs (clericus iuratorum)* is an officer belonging to the court of the common plects, which maketh out the writs called (*habeas corpora*) and (*distringas*) for appearance of the Iurie, either in court or at the assises, after that the Iurie or panell is returned vpon the (*venire facias*). He entreth also into the rols the awarding of these writs, and maketh all the continuance from the going out of the (*habeas corpora*) vntill the verdict be giuen.

*Clerk of the pipe (clericus pipe)* is an officer in the kings exchequer, who hauing all accounts and debts due to the king delivered and drawne downe out of the Remembrancers offices, chargeth them downe into the great rolle: who also writeth summons to the Shyreue, to leuie the said debts vpon the goods and catels of the debtors: and if



they haue no goods, then doth he drawe them downe to the *L.* treasurers remembrancer, to write extreats against their lands. The awncient reueneu of the Crowne, remaineth in charge afore him, & he seeth the same answered by the fermers & shyreeues to the King. He maketh a charge to al Shyreeues of their summons of the pipe and greenwax, and seeth it answered vpon their accompts. He hath the drawing and ingrossing of all leases of the Kings land.

*Clerk of the hamper or hanaper* (*clericus hanapery*) is an officer in chawncerie, anno 2. Ed. 4. ca. 1. otherwise called warden of the hamper, in the same statute, whose functiō is, to receiue al the mony due to the kings maiestie, for the seales of charters, patēts, commissions, and writs, as also feese due to the officers for enrolling & examining the same, with such like. He is tied to attendance on the lord Chancellor, or lord keeper, daily in the terme time, and at all times of sealing: hauing with him leather bags, wherein are put all charters, &c. after they be sealed by the Lord Chancellor, and those bags being sealed vp with the lord Chancellers priuate seale, are to be deliuered to the controller of the hanaper, who vpon receipt of them, doth as you shall

reade in his office. This hanaper representeth a shadowe of that which the Romanes termed (*fiscum*) that contained the Emperours treasure.

*Clerk of the ples* (*clericus placitorum*) is an officer in the exchequer, in whose office all the officers of the court (vpon especiall priuiledge belonging vnto them) ought to siew or be siewed vpon any action.

*Clerk of the tresurie* (*clericus thesaurarie*) is an officer belonging to the common ples, who hath the charge of keeping the records of the courte, and maketh out all the records of *Nisi prius*, hath the fees due for all searches, and hath the certifying of all records into the the kings bench, when a writ of errour is brought; and maketh out all writs of (*Superfideas de non molestando*) which are graunted for the defendants, while the writ of errour hangeth. Also he maketh all exemptions of records being in the tresurie. He is taken to be the servant of the chiefe Iustice, and remouable at his pleasures: whereas al other officers are for terme of life. There is also a Secundarie, or vnder clerk of the tresurie for assistance, which hath some allowances. There is likewise an vnder keeper, who alway keepeth one key of the treasury doore, & the chiefe

chiefe clerke of the Secundarie another:so the one cannot come in without the other.

*Clerk of essoines*, (*clericus essoniorum*) is an officer belonging to the courte of common plects, who onely keepeth the essoines rolle, and hath for entring everie essoine, sixe pence, and for euery exception to barre the essoine, in case where the partie hath omitted his time, sixe pence. He hath also the providing of parchment, and cutting it out into rols, and marking the numbers vpon them, and the deliuerie out of all the rols to euerie officer, and the receiuing of them againe, when they be written, and the binding and making vp of the whole bundels of euerie terme: and this he doth as seru-  
uant to the cheife Iustice. For the cheife Iustice is at charge for all the parchemēt of all the rols.

*Clerk of the outlawries*, (*clericus utlagariarum*) is an officer belonging to the court of common plects, being onely the seru-  
uant or deputie to the kings atturney generall, for making out the writs of (*capus utlagatum*) after outlawrie. And the kings attur-  
neis name is to euerie one of those writs. And whereas seuen pence is paide for the seale of euerie other writ betwixt partie & party, there is but a peny paid for the seale of this writ, because

it goeth ourt the Kings suite.

*Clerk of the sewers*, (*clericus suerarium*) is an officer appertei-  
ning to the commissioners of sewers, writing all things that they doe by vertue of their com-  
mission, for the which See *Sew-  
ers*: and see the statute *anno 13.  
Elizabe.ca.9.*

*Clerk controller of the kings house*, (whereof there be two) is an officer in court, that hath place and seate in the compting house and authoritie to allow or disal-  
low the charges and demands of pursuivants or messengers of the greene cloth, purueiours, or o-  
ther like. He hath also the ouer-  
sight and controlling of all de-  
faults, defects and miscariages of any the inferiour officers, and to sit in the counting house with the superiour officers, viz. the L. Steward, treasurer, controller and coferer. either for correct-  
ing or bettering things out of order; and also for bringing in country provision requisite for the Kings household: and the cen-  
sure for sayling of cariages and carts warned & charged for that purpose. This officer you haue mentioned. *anno. 22. H. 8. ca. 12.*

*Clerk of the Nihils* (*clericus nihilorum*) is an officer in the Ex-  
chequer, that maketh a rolle of all such summes, as are nihiled by the shyreeues vpon their es-  
treats of greene waxe, and dili-  
vereth



vereth the same into the Lord treasurers remembrancer his office, to haue execution done vpon it for the king.

*Clerk of the check*, is an officer in court, so called, because he hath the check and controlment of the yeomen of the gard, and all other ordinary yeomen and huissiers belonging either to his maiesty, the Queene, or Prince, either giuing leaue, or allowing their absences or defects in attendance, or deninishing their wages for the same. He also nightly by himselfe or depute, taketh the view of those that are to watch in the court, and hath the setting of the watch. This officer is mentioned. *anno* 33. *H. 8. ca. 12.*

*Clerk marshiall of the kings house*, seemeth to be an officer that attendeth the marshiall in his court, and recordeth all his proceedings, *anno* 33. *H. 8. cap. 12.*

*Clothe of raze.* *anno* 27. *Ed. 3. sta. 1. cap. 4.*

*Closhe*, is an vnlawfull game forbidden by the statute, *anno* 17. *Ed. 4. cap. 3.* which is casting of a bowle at nine pinnes of wood, or nine shanke bones of an oxe or horse.

*Clove* is the 32. part of a weigh of cheese. i. 8. pound, *anno* 9. *H. 6. cap. 8.*

*Cloues* (*caryophylli*) are a spice

knowne by sight to euery man. They be flowers of a tree called (*caryophyllus*) gathered and hardened by the Sunne. Of their mature you may reade in *Gerards Herball. lib. 3. cap. 144.* This is comprised among such spices, as be to be garbled, *anno* 1. *Iacob. cap. 19.*

*Cocket* (*cokettum*) is a sealeappertaining to the kings custome house, *Regist. orig. fol. 592. a. &* also a scrow of parchment sealed and deliuered by the officers of the custome house to merchants, as a warrant that their merchandize be customed, *anno* 11. *H. 6. cap. 16.* which parchment is otherwise called *litera de coketto*, or *litera testimoniales de coketto*. *Regist. ubi supra. fol. 179. a.* So is the word vsed, *anno* 5. & 6. *Ed. 6. cap. 14.* and *anno* 14. *Ed. 3. stat. 1. cap. 21.* This word is also vsed for a distinction of bread in the statutes of bread & ale, made *anno* 51. *H. 3.* where you haue mention of bread coket, wastell bread, bread of trete, and bread of common wheate.

*Cofefer of the Kings household*, is a principal officer of his Maisties court, next vnder the Controller, that in the counting house and elsewhere at other times, hath a speciall charge and ouersight of other officers of the household, for their good demeanure and cariage in their offices, to all which,

which one and other, being either Sergeants, Yeomē, groomes, pages, or children of the kitchen, or any other in any roome of his Maiesties seruants of household, and payeth their wages. This officer is mentioned. *anno 39. Elizabeth. cap. 7.*

*Cogs anno 23. H. 8. cap. 18.*

*Conisour of a fine*, is he, that passeth or acknowledgeth a fine in lands or tenements to another: *Cognissee* is he to whom the fine is acknowledged, *West. parte 2. Symbol. titulo Fines. sect. 2.*

*Cognizance*, commeth from the French (*cognisance. i. intelligentia, intellectus, norio, cognitio*.) with vs it is vsed diuersly: some time signifying a badge of a seruingmans sleeue, whereby he is discerned to belong to this or that Noble or Gentleman: sometime an acknowledgement of a fine, or confession of a thing done: as *cognoscens latro, Bracton. lib. 3. tract. 2. cap. 3. 20. 32. cognoscere se ad villanum. Idem lib. 4. tractat. 3. cap. 16.* As also to make cognisance of taking a distress: sometime as an audience or hearing of a matter iudicially, as to take cognisance: sometime a power or iurisdiction, as cognisance of plee, is an habilitie to call a cause or plee out of another court: which no man can doe but the king, except he can shew charter for it. *Mannwood*

*parte 1. Of his Forest lawes, pag. 68.* See the new tearmes of the lawe, and the new booke of Entries, *verbo, Conisance.*

*Cognations.* See *Cosenage.*

*Cognisour*, see *Conisour.*

*Cognitionibus mittendis*, is a writ to a Iustice, or other, that hath power to take a fine, who hauing taken knowledgement of a fine, deferreth to certifie it into the court of common plects, commanding him to certifie it. *Regist. orig. 68. b.*

*Coin* (*cuneus, vel cuna*) seemeth to come from the French (*coin. i. angulus*) which probably verifieth the opinion of such, as doe hold the auncientest sort of coyne to be cornered and not round. Of this Lawyers substantiue (*cuna*) commeth the Lawyers verbe (*cunare*) i. to coyne. *Cromptons Iustice of peace fol. 220.*

*Coriander seede*, or rather *Coriander seede* (*Semen coriandri*) is the seede of an herbe so called, medicinable and wholesome for diuers good purposes, which see in *Gerards Herball. lib. 2. cap. 379.* It is numbred among the drugges that be to be garbled, *anno 1. Iacob. cap. 19.*

*Collateral* (*collateralis*) commeth of the Latine (*laterale*) i. that which hangeth by the side. *Lateralis viatoria. w. de lega. & fideiuss. tertio l. 102.* seeme to



signifie a budget or capcase to hang by a saddle pomel. *Collateral*, is vsed in the common law, for that which cometh in, or is adhering of the side: as, collateral assurance, is that which is made ouer and beside the deede it selfe. For example, if a man couenant with another, and enter bond for the performace of his couenant, the bond is termed collateral assurance; because it is externall, and without the nature and essence of the couenant. And *Crompton* in his *Iurisd.* fol. 185. saith, that to be subiect to the feeding of the kings Deere, is collateral to the soyle within the Forest. In like maner may we say, that the libertie to pitche boothes or standings for a Faire in another mans ground, is collateral to the ground. The priuate woods of a common person within a Forest, may not be cut without the kings licence. For it is a prerogative collateral to the soyle. *Mannwood parte 1.* of his Forest lawes, pag. 66. *Collateral warrantie.* See *Warrantie.*

*Collation of a benefice* (*collatio beneficii*) signifieth properly the bestowing of a benefice by the Bishop, that hath it in his owne gift or patronage: and differeth from Institution in this, for that Institution into a benefice, is performed by the Bishop at the

motion or presentation of another, who is patron of the same, or hath the parrons right for the time. *Extra de Institutionibus. & De concessione prebendarum. &c.* And yet is collation vsed for presentation. anno. 25. Ed. 3. stat. 6.

*Collatione facta uni post mortem alterius, &c.* is a writ directed to the Iustices of the common pleges, commanding them to direct their writ to a Bishop, for the admitting of a clerk in the place of another presented by the king, that during the suit betweene the king and the Bishops clerk, is departed. For judgment once passed for the kings clerk, and he dying before he be admitted, the king may bestow his presentation vpon another. *Register orig. fo. 31. b.*

*Collatione heremitagii*, is a writ whereby the king conferreth the keeping of an ermitage vpon a clerk. *Register orig. fo. 303 308.*

*Colour*, (*color*) signifieth in the common law, a probable plee, but in truth false, and hath this end, to draw the triall of the cause from the Iury to the Iudges. Of this see two apt examples in the author of the new tearms. *Verbo Colour.* who also referreth you to the Doctor and student. fo. 158. &c. See *Erke* tit. *Colour in assise, messas &c.* fol.

fo. 140.

*Collusion*, (*collusio*) is in our common law, a deceitfull agreement or compact between two or more, for the one party to bring an action against the other to some euill purpose; as to defraude a third of his right, &c. See the new tearms. and *Broke titulo. Collusion*. See also one case of collusion in the *Register orig. fo. 179. a.*

*Combat*, (*duellum*) is a french word signifying as much as (*certamen, decertatio, dimicatio, discrimen, praelium, pugna*) but in our common law, it is taken for a formall triall of a doubtfull cause or quarrell, by the sword or bastons of two champions. Of this you may reade at large both in diuers ciuilians, as *Paris de Puteo, de remilitari & duello. Alciat de duello, Hotomam disputatio. feudallium. ca. 42.* and others: as also in our common lawyers of England, namely *Glanville. li. 14. ca. 1. Bracton. li. 3. tracla. 2. ca. 3. Britton ca. 22. Horns mirrour of Iustices li. 3. ca. des exceptions in sine proxime ante c. Iuramentū duelli. Dier. fo. 301. nu. 41. & 42.* That this also was aunciently the law of the *Lombards*, before they inuaded Italy (which was about the yeare of our Lord 571. appeareth by *Sigonius*, in his histotie *De regno Italie. lib. 2. de Arrialdorege.* who there reporteth,

that the said king, hauing put away his wife *Gundeberga*, vpon a surmise of adulterie with *Tato Duke of Etruria*, at the private suggestion of *Adalulphus*, a great man among the *Lombards*, and being charged by *Clotharius* the king of *France* his Ambassadors, of whose bloud she was, that he had done her wrong: he answered, that he had done her no wrong. Whereupon *Ansoaldus* one of the ambassadors replied, that they would easily beleue him, if he would suffer the truth to be tried by combat, betweene some one of the *Queens* friends, and her accuser, according to the custome of the *Lombards*. And the king yelding vnto this, *Adalulphus* was vanquished by one *Pitto*, otherwise called *Charles*, set forth for the *Queens* champion, and she restored to her former place and honour.

*Cumin seede, alias, Cummin seede*, (*Semen cumini*) is a seede brought forth by an hearbe so called, which you may see described in *Gérards Herball, lib. 2. cap. 416.* This is placed among the garbleable drugges, anno 1. *Iacob. cap. 19.*

*Comitatu commissio*, is a writ or a commission, whereby the Shyreue is authorized to take vpon him the swaye of the countie. *Regist. orig. fol. 295. a. & b.* and *Cokes Reports. li. 3. fol. 72. a.*



*Comitatu & castro commisso*, is a writ whereby the charge of a countie, together with the keeping of a castell, is committed to the Shyreue, *Reg. orig. fol. 295. a.*

*Commundrie* (præceptorie) was by some mens opinion, a maner or chiefe mesuage, with which lands or tenements were occupied, belonging to the Priorie of *S. Iohns in Hierusalem* in England: and he which had the gouernement of any such maner or house, was called the commaunder, who had nothing to dispose of it, but to the vse of the Priorie, taking onely his sustentance thence, according to his degree, and was vsually a brother of the same Priorie. Author of the new tearmes of lawe. *verbo, Commundrie*. By some other bookes it appeareth, that the chiefe Prior of *S. Iohns*, was a commaunder of a Nunnerie, and constituted the Priores of the said Nunnerie, who was vnder his obedience, and remoueable at his will, notwithstanding that shee had covent, and common seale, and had her possessions seuerall, and was wont to lease the land for terme of yeares. *Fulbeck's Paralels, fol. 2. a.* Of these commundries also *Petrus Gregorius lib. de beneficiis cap. 11. num. 11.* hath these words: *Præceptorie dicta commende sacrorum militum, vel alii ordinis hospit. alii Sancti Iohannis*

*Hierosolymitani, beneficia quidem secundum quid Ecclesiastica dicuntur à Barbatia ad Clement. causam col. 51. de Electione. Tamen non propriè dicuntur ex genere communium beneficiorum, eo quod persone conferentes, & quibus conferuntur, non sunt laici vel ecclesiastici, sed tertii ordinis. De huius beneficiis fit mentio. cap. exhibita de privilegiis. in extravag. com. in cap. Dudum. de decimis.* These in many places of our realme are termed by the name of temples, because they sometime belonged to the Templers. Of these you reade *ann. 26 H. 8 cap. 2. & anno 32. eiusd. ca. 24.* And of these the said *Gregorius Tolosanus. li. 15. sui syntagmatis. cap. 34.* hath these words: *Monachus superiori capite, crescente numero peregrinorum, iuxta Templum Hierosolymitanum Xenodochium adificatum, tit. Dini Iohannis, quo exciperentur peregrini, quos canobia capere non possent. Huius ergo ministerio quoque viri piji nobiles se devoverunt, qui & peregrinos tutarentur, & à laicorum seu Agarenorum incurfu defenderent. Horum professio est votum solenne paupertatis, & abdicationis propriorum, castitatis, & obedientie. Proinde propter primum votum nihil proprii habent, vel habere debent, sed accipiunt annonam, quam diu vivunt, vel præceptorias (quas vocant Commenderies) administrant, quam diu eas possident, & optione mutant,*

*vel*

vel ex magistri licentia permittant reddituri morientes que apud eos reperietur, societati Of these *Cora sine* in his paraphrase *Ad sacerdot. m. 11. parte prim. cap. 3.* saith thus: *Preceptorie Rhodienses, cum non nisi fratribus Hierosolymitanis, atque ita personis ecclesiasticis conferantur, beneficiis ecclesiasticis annumerari merito debent.*

Commaundement (*praeceptum*) is vsed diuerfely in the common lawe: some time for the commaundement of the king, when vpon his ineeare motion, and from his owne mouth, he casteth any man into prison. *Stawnf. pl. cor. fo. 72.* or of the Iustices. And this commadement of the Iustices, is either absolute or ordinary: absolute, as when vpon their owne authority in their wisedome and discretion, they commit a man to prison, for a punishment: Ordinary is, when they commit one rather for safe custody then punishment. And a man committed vpon an ordinary commaudemēt, is repleuifable. *pl. cor. fo. 73.* Comandement is againe vsed for the offence of him, that willet another man to transgresse the lawe, or to doe any such thing, as is contrary to the lawe, as murder, theft, or such like. *Bract. li. 3. tra. 2. ca. 19* And this the ciuilians call (*mandatum*) *Angelus de maleficiis.*

Commen (*communia*) commeth

from the french (*commun. i. quod ad omnes pertinet*) and signifieth in our common lawe, that soile or water, whereof the vse is common to this or that towne, or lordship; as common of pasture (*communia pastura.*) *Bract. li. 4. ca. 19. & 40.* common of fishing. *communia piscaria. Idem. li. 2. ca. 34.* common of turbarie. i. of digging turues (*communia turbaria*) *Idem. li. 4. ca. 41.* cōmen of estouers (*communia estoueriarum.*) *Kutbin. fo. 94.* Comen, is deuided into comen in grosse, comen appendant, comen appertinent, and comen per cause de vicinage. i. by reason of neighbourhood. Cōmen in grosse, is a liberty to haue cōmen alone (that is) without any land or teneement, in another mans land, to him selfe for life, or to him and his heires. And this is commonly passed by deede of graunt or specialty. *Old nat. br. fo. 31. & 37.* *Commen appendant* and common appertinent, be in a maner confounded: as appeareth by *Fuzh. nat. br. fo. 180.* and be defined to be a liberty of common, appertaining to, or depending of such or such a freehold. *Onely Kitchin. fo. 94.* seemeth to make this difference, that he which hath comen appertinct, hath it without limitation of this or that kinde of beastes: but that is controlled by *Dyer. fo. 70. b.*



114. 19. He that hath *common* appendant, hath it but for beastes commenable, as horses, oxen, kine, and sheepe, being accompted fittest for the plowman: and not of goates, geese and hogs. whereunto the author of the new teamms of law addeth another difference: which is, that common appertinent may be severed from the land, wherunto it is appertinent, but not common appendant. The originall of common appendant *S. Ed Coke li. 4. fo. 37.* thus expresseth: Common appendant, by the auncient lawe, had beginning in this maner, when a lord infeoffed another in crable lands, to hould of him in socage (*id est, per seruicium soca*) as all tenure in the beginning (according to *Littleton*) was: the feoffee, to maintaine the seruice of his plough, had commō in the waists of his lord, for his necessary beastes to gaine and compas his land: & that for two causes: one for that, as then it was taken, it was (*tacite*) implied in the feofment, by reason the feoffee could not gaine or compas his land without catell, and catell could not be sustained without pasture. and so by consequent the feoffee had (as a thing necessary and incident) common in the waistes and land of the lord. And this appeareth by auncient books

*tempore. Ed. i. tit. common. 24. & 17. E. 2. tit. common. 23. & 20. Ed. 3. tit. Admesurement. 8. & 18. Ed. 3.* and by the reherfall of the statute of *Merton. ca. 4.* The second reason was for maintenance, and aduancement of tillage, which is much regarded and fauoured in the lawe, Thus farre *S. Edward.*

*Commen per cause de vicinage*, is a libertie, that the tenents of one lord in one towne, haue to common with the tenents of another lord in another towne. which kinde of common they that chalenge, may not put their catell into the common of the other towne. For then they be distreinable. But turning them into their owne fields, if they strey into the neighbours common, they must be lissured. See the *terms of lawe.* Common of pasture the Civilians call *ius compascendi, cum scilicet plures ex municipibus qui diuersa predia possidebant, saltum communem, ut ius compascendi haberent, mercarentur. l. penult. ff. si seruit, vendicetur.* It is also called *ius compascuum. ibidem.*

*Commendam* (*commenda*) is a benefice, that being voide, is comended to the charge & care of some sufficient clerk, to be supplied, vntill it may be conveniently provided of a pastor. And that this was the true originall of this practise, you may read

read at large in *Duarenus de sacris ecclesie ministeriis & beneficiis li. 5. ca. 7.* And whereas the glosse, in verbo commendare. in ca. *Nemo deinceps de electione. in sexto.* defineth commendam esse ecclesie custodiam alicui commissam: *Iohannes Andreas* therevpon saith. thus: huius de finitioni necessario hac adicienda putem: in tempus gratia evidentis necessitatis & utilitatis. Idq; docuit textus in dicto capite. *Nemo.* *Corrasius* in his paraphrase de sacerdotiorum materia parte prima. ca. 6. nu. 3. & seqq thus describeth the mater: In commendam conceditur beneficium, cum Romanus Pontifex, Legatus, aut Episcopus (Neque enim inferioribus, qui ex privilegio aut alio iure spirituali conferunt, concessum est, ca. cum omnes basilica. 1. 6. q. 1. 7.) ecclesie vacantis custodiam alicui committit, administratorem generalem eius templi eum constituens, ca. *nemo. de electio. in sexto.* Commendare enim aliud est nihil, quam depone. l. publicus. 1. de positi. l. commedare. 1. de verb. signif. Hoc autē, ad tempus sex mensium. & pro evidenti necessitate aut utilitate ecclesie ex perimit, (d. ca. *Nemo.*) Quare commendatarius qui ecclesie vacantis & fructuum, ad tempus duntaxat custodiā habet, nec tenere beneficium, nisi se habere in beneficio, aut canonicum titulum confectur: ut nec depositarius in re deposita. whereof also *Petrus Gregorius de benefi-*

*cis, ca. 10. nu. 13.* thus writeth. In hac quarta divisione, potest addi tertium genus beneficii, quod circa prescriptionem qualitatis a persona alterius qualitatis quam beneficium exigit natura, possidetur, sed sine preiudicio natura beneficii, & per dispensationem, eo commendato olim ad tempus certum certe persona, hodie, ut plerumq;, quā diu commendatarius vixerit. Vocant hoc beneficium commendatum commendam: ut si regulare beneficium a Summo Pontifice conferatur, nomine commedat. seculari. Nam ideo non mutatur beneficii natura, nec fit ideoulare, &c. And a little after, Interim annotabimus duplici de causa fieri commendam ecclesie, nempe vel in utilitatem ecclesie, vel commendatarii. In primo commendatitulum non dat beneficii commendatario, & dicitur potius custodia que revocari potest: quod repugnat nature beneficii, quod est perpetuum. In secundo autem casu beneficium confectur in utilitatem commendatarii commedat. facta, quam possidere potest quā diu vixerit, &c. where you may also read. ca. 2. l. 13.

*Commisarie (comissarius)* is a title of ecclesiasticall jurisdiction, appertaining to such a one as exerciseth spirituall iurisdiction (at the least, so farre as his commission permiteth him) in places of the diocess so farre distant from the chiefe citie, as the chanceler cannot call the sub-

iects



jects to the Bishops principall consistorie, without their to great molestation. This commissarie is of the canonists termed *commissarius* or *officialis foraneus*. Lyndwoods *provin. ca. 1. de accusatio. verbo. Mandatum archiepiscopi. in glos.* and is ordeined to this especiall end, that he supply the bishops iurisdiction and office in the out places of the dioces, or els in such parishes as be peculiar to the bishop, and exempted from the iurisdiction of the Archdeacon. For where either by prescription or composition, there be archdeacons that haue iurisdiction within their archdeaconries, as in most places they haue, there this commissarie is but superfluous, and most commonly, doth rather vex and disturb the country for his lucre, then of conscience seeke to redresse the liues of offenders. And therefore the Bishop taking prestation mony of his archdeacons yearly *pro exteriori iurisdictione*, as it is ordinarily called, doeth by superonerating their circuit with a commissarie, not onely wrong archdeacons, but the poorer sort of subiects much more, as common practise daily teacheth to their great woe.

*Comission*, (*commissio*) is for the most part, in the vnderstanding of the common lawe, as much as (*delegatio*) with the Civilians.

(See Broke. *titulo commission.*) and is taken for the warrant or letters patents, that all men exercising iurisdiction either ordinarie or extraordinarie, haue for their power to heare or determine any cause or action. Of these see diuers in the table of the *Register originall. verbo. Commissio*. yet this word sometime is is extended farder, then to matters of iudgement: as the commission of purueiours or takers. *anno. 11. H. 4. ca. 28.* But with this epitheton (*high*) it is most notoriously vsed for the honourable commission court, instituted and founded vpon the statute 1. *Eliza. ca. 1.* for the ordering and reformation of all offences, in any thing appertaining to the iurisdiction ecclesiasticall: but especially such as are of higher nature, or, at the least, require greater punishment, then ordinarie iurisdiction can afford. For the world being growne to that loosenes, as not to esteeme the censure of excommunicatio, necessitie calleth for those censures of fynes to the prince and imprisonment, which doe affect men more neerely.

*Commission of rebellion* (*Commissio rebellionis*) is otherwise called a writte of rebellion, (*breue rebellionis*) and it hath vse, when a man after proclamation made by the Shyreue vpon an order

of the channerie, or court of Starre chamber, vnder penaltie of his allegiance, to present himselfe to the court by a certaine day, appeareth not. And this commission is directed by way of commaund to certaine persons, to this end, that they, or three, two, or one of them, doe apprehend, or cause to be apprehend, the party as a rebell and contenner of the kings lawes, wheresoeuer they find him within the kingdome, and bring him, or cause him to be brought to the courte, vpon a day therein assigned. The true copie of this commission or writ, you haue in *Cromptons diuers Iurisdictiones. Court de Starre chamber:* as also in *West. tractat. touching proceedings in Chancerie, Sectio 24.*

*Commissioner (commissionarius)* is he that hath commission, as leters parents, or other lawfull warrant, to execute any publike office: as commissioners of the office of fines and licenses. *West. parte. 2. symbol: titulo Fines. sect. 106. commissioners in eyre. an. 3. Ed. 1. ca. 26.* with infinite such like.

*Committee*, is he to whome the consideration or ordering of any mater is referred, either by some court, or consent of parties, to whome it belongeth. As in Parliament, a bille being read, is

either consented vnto and passed, or denied, or nether of both, but referred to the consideration of some certaine men, appointed by the house farder to examine it: who thereupon are called *committees*. Committee of the King. *West. par. 2. symbo. titulo Chancerie. sect. 144.* This word seemeth to be something strangely vsed in *Kitchin. fo. 160.* where the widow of the kings tenent being dead, is called the comitteee of the king. that is, one committed by the auncient law of the land, to the kings care and protection.

*Common bench (bancus communis)* is vsed some time for the court of common plees. *anro. 2. Ed. 3. ca. 11.* So called, as *M. Camden* saith in his *Britannia. pa. 113. quia communia placita inter subditos ex iure nostro, quod communia vocant, in hoc disceptantur*, that is, the plees or controuersies tryed betweene common persons.

*Common fine (finis communis)* of this *Fleta* hath these words: *Quibus expeditis* (speaking of the businesse finished by Iustices in eyre) *consueverunt Iusticiarii impo- nere villatis, iuratoribus, hundredis, & toti comitatui concelamentum, & omnes separatim amerciare: quod videtur voluntarium, cum de periu'o & concelamento non fuerint convicti, sed potius dispensandum*



esset cum eis quod animas in statera posuerint pro pacis conseruatione. li. 1. cap. 48. §. *Quibus*. And a litle following. §. *Et prouisum*, he hath these words: *Et prouisum est, quod communes misericordia vel fines comitatum amerciatorum in finibus itinerum Iusticiariorum ante recessum ipsorum Iusticiariorum per sacramenta militum, & aliorum proborum hominum de comitatibus eodem, affidentur super eos qui contribuere debent: unde particula Iusticiarius liberentur, ut cum aliis extractis suis ad Scaccarium liberare valeant*. These last words of his haue relation to the statute, *Westm. pr. cap. 18.* which reade. See *Fine*.

*Common plees* (*communia placita*) is the kings Court now held in *Westminster* hall, but in auncient time moueable, as appeareth by the statute called *Magna charta. cap. 11.* as also *anno 2. Ed. 3. cap. 11.* and *Pupilla oculi, parte 5. cap. 22.* But *M. Gwin* in the Preface to his readings saith, that vntill the time that *Henry* the third granted the great charter, there were but two courts in all, called the Kings courts: whereof one was the Exchequer, and the other, the kings bench, which was then called (*curia Domini regis*) and (*aula regia*) because it followed the court or king: and that vpon the grant of that char-

ter, the court of common plees was erected and settled in one place certaine: viz. at *Westminster*. And because this court was settled at *Westminster*, wherefoeuer the king lay: thereupon *M. Gwin, ubi supra*, saith, that after that, all the writs ranne, *Quod sit coram Iusticiariis meis apud Westmonasterium*: whereas before the partie was commanded by the, to appeare *coram me vel Iusticiariis meis*, simply without addition of place, as he well obserueth out of *Glanuile* and *Bracton*, the one writing in *Henry* the seconds time, before this court was erected, the other in the later end of *Henry* the thirds time, who erected this court. All ciuill causes both reall and personall are, or were in former times, tryed in this court, according to the strict lawe of the realme: and by *Fortescue, cap. 50.* it seemeth to haue bene the onely court for reall causes. The chiefe Iudge thereof is called the Lord chiefe Iustice of the common plees, accompanied with 3. or 4. assistants or associates, which are created by letters patents from the king, and (as it were) enstalled or placed vpon the bench, by the Lord Chancellor and lord chiefe Iustice of the court, as appeareth by *Fortescue, cap. 51.* who expresth all the circumstances of this admission. The rest of the officers

cers belonging to this court, are these: the *custos breuium*, three Protonotaries, otherwise called Prenotaries, Chirographer, Filazers 14. Exigenters, 4. Clerke of the warrants, Clerke of the Iuries or iurata writs, Clerke of the Treasurie, Clerke of the kings siluer, Clerke of the essoins, Clerke of the outlawries. Whose distinct functions looke in their places. See *Common bench*.

*Common day in plee of land*, an. 13. R. 2. stat. 1. cap. 17. signifieth an ordinarie day in the court as *Octauis Michaelis*, *quindena pasce*, &c. as you may see in the statute made anno 51. H. 3. concerning generall dayes in the bench.

*Common house of parliament*, is vsed for the nether house: because the commons of the realme, that is, the knights of the shires and burgeses, possesse that house. *Crompton iurisd.* 9.

*Commotes*, seemeth to be compounded of the prepositiō (*con*) and (*mot. i. dictio, verbum*) and signifieth in Wales a part of a shire, as a hundred. anno. 28. H. 8. ca. 3. It is written *commoithes*. anno. 4. H. 4. ca. 17. and is vsed for a gathering made vpon the people (as it seemeth) of this or that hundred, by welsh minstrels.

*Common law* (*cōmunis lex*) hath three diuers significatiōs. which see in the author of new termes

of law. *verbo. Common law.*

*Communi custodia*, is a writ that lyeth for that lord, whose tenant houlding by knights seruice, dyeth, and leaueth his eldest sonne vnder age, against a straunger that entreth the land, and obtaineth the ward of the body. It may seeme to take the name from the common custom or right in this case: which is, that the lord haue the wardship of his tenant, vntill his full age, or because it is common for the recouery both of land and tenant, as appeareth by the forme thereof. *Old nat. br. fo.* 89. See also the *Register orig. fo.* 161. a.

*Communi placito non tenendo in scaccario*, is a writ directed to the treasurer and barons of the exchequer, forbidding them to hould plee betweene two common persons in that court, neither of them belonging toward the said court. *Register orig. fo.* 187. b.

*Companion of the garter*, is one of the knights of that most noble and honourable order. anno. 24. H. 8. ca. 13. See *Garter*.

*Compromis*, (*compromissum*) is a mutuall promise of two or more parties at difference, to referre the ending of their controuerlies, to the arbitrimēt and equitie of one or more arbitratours. *West. defineth* is thus, *partie. 2. Symbol. titulo Compromise. sect.*



*pri.* A compromise or submission (*arbitrium, compromissum, submissio*) is the faculty or power of pronouncing sentence between persons at controuersie, giuen to arbitratours by the parties mutuall priuate consent, without publique authority.

*Compuso*, is a writ so called of the effect: because it compelleth a baylife, chamberlaine, or receiuer to yeld his accompt, *Old nat. br. fo. 58.* It is founded vpon the statut of *Westm. 2. ca. 2. anno. 13. Ed. i.* which for your beter vnderstanding you may read. And it lyeth also for executours of executours. *anno. 15. Ed. 3. statut. de promiss. virtual. ca. 5.* Thirdly, against the garden in socage for waste made in the minority of the heire. *Mari. b. ca. 17.* And see farder in what other cases it lyeth. *Register orig. fo. 135. old nat. br. ubi supra. & Fitzh. nat. br. fo. 116.*

*Concealers*, be such as finde out concealed lands, that is, such lands as priuily are kept from the king by common persons, hauing nothing to shew for them. *anno. 39. Eliza. ca. 22.* They be so called a *concelando*, as *mons a monendo. per antiphrasin.*

*Concord*, (*concordia*) is in the common law, by a peculiar signification, defined to be the very agreement between parties, that intend the leuying of a fine

of lands one to the other, how and in what maner the land shall passe. For in the forme thereof many things are to be considered. *West. parte. 2. Symbol. titulo. Fines and concords, sect. 30.* whome read at large. Concord is also an agreement made vpon any trespas comitted between two or more: and is diuided into a concord executory, and a concord executed. See *Plowden. casu Reniger, & Fogassa fo. 5. & 6.* where it appeareth by some opinion, that the one bindeth not as being imperfect: the other absolute and tyeth the parties: and yet by some other opinion in the same case, it is affirmed that agreements executory be perfect, and doe noe lesse binde, then agreements executed. *fo. 8. b.*

*Concubinage*, (*concubinitas*) is an exception against her, that sheweth for her dower, whereby it is alleadged, that shee was not a wife lawefully married to the party, in whose lands shee seeketh to be endowed, but his concubine. *Britton. ca. 107. Bract. li. 4. tract 6. ca. 8.*

*Condition*, (*conditio*) is a rate, maner, or lawe, annexed to mens acts, staying or suspending the same, and making them vncertaine, whether they shall take effect or no. *West. parte 1. symb. li. 2. Sect. 156.* In a lease there may be

be two sorts of conditions: condition collaterall, or condition annexed to the rent. *Sir Edward Coke. lib. 3. Pennants case. fol. 64.* Collateral condition is that, which is annexed to any collateral act: as that the lessee shall not go to Rome, *ibid. fol. 65.* Condition is also diuided, into condition in deed or fact, and condition in law: which otherwise may be tearmed, condition expressed, and condition implied. *Perkins. Conditions. 722.* These and other like diuisions of conditions you may reade in the author of the new Termes of law. *verbo. Condition.* and in *Littleton. li. 3. cap. 5.*

*Conders*, may seeme to proceed from the French, (*condure. i. deducere, gubernare*) they be such as stand vpon high places neere the sea coast, at the time of herring fishing, to make signes with bowghes, &c. in their hand vnto the fishers, which way the shole of herrings passeth For that may beter appeare to such as stand vpon some high cliffe on the shore, by a kind of blew colour, that the said fish causeth in the water, then to those that be in the shippes. These be otherwise called huers, by likelihood of the French (*huer. i. exclamare*) and balkers: as appeareth by the statute, *anno 1. Iacob. cap. 23.*

*Cone & key. Bracton. lib. 2. ca.*

37. num. 3. looke *Cover* and *Key.*

*Confirmation (confirmatio)* is a strengthening of an estate formerly had, and yet voydable, though not presently voyde. For example, a Bishop graunteth his Chancelershippe by patent for the terme of the patentee his life: this is no voyde graunt, but voydable by the bishops death, except it be strengthened by the confirmation of the Deane and chapter. See more of this, in *West. parte prim. symb. lib. 2. sect. 500.* and *Fitz. nat. br. fol. 169. B. 226. H. 271. D. 163. G.* and *Littleton lib. 3. cap. 9.*

*Confiscate (confiscatus)* may be said to come either from the Latine (*confiscare*) or the French (*confisquer. i. in publicum addicere.*) All these words are drawne from (*fiscus*) which originally signifieth a hamper, pannyer, basket, or freyle: but metonymically the Emperours treasure: because it was anciently kept in such hampers, &c. And though our king keepe not his treasure in such things: yet as the *Romanes* said, that such goods as were forfeited to the Emperours treasure for any offence, were *bona confiscata*: so do we those that are forfeited to our kings Exchequer. See more of these goods confiscate, in *Stannf. pl. cor. lib. 3. cap. 24.*



*Conge d'eslire* (*venia eligendi*) is very French, and signifieth in our common lawe, the kings permission royall, to a Deane and chapter in time of vacation, to chuse a bishop: or to an Abbey or Priorie of his owne foundation, to chuse their Abbot or Prior. *Fitz. nap. br. fol. 169. B. 170. B. C. &c.* Touching this mater, *M. Gwin* in the preface to his readings saith, that the king of England, as soueraigne patron of all Archbishopricks, Bishopricks, and other Ecclesiasticall benefices, had of auncient time, free appointment of all ecclesiasticall dignities, when soeuer they chaunced to be voide: inuesting them first (*per baculum & annulum*) and afterward by his leters patents: and that in proces of time he made the election ouer to others, vnder certaine formes and conditions: as namely, that they should at euery vacation before they chuse, demaund of the king (*conge d'eslire*) that is, licence to proceede to election, and then after the election, to craue his royall assent, &c. And furder he affirmeth by good prooffe out of common lawe bookes, that King Iohn was the first that graunted this, and that it was afterward confirmed by *Westm. pri. ca. i.* which statute was made *anno. 3. Ed. pri.* and againe by the statut (*Ar-*

*tuli cleri*) *ca. 2.* which was ordained. *anno. 25. Ed. 3. statuto tertio.*

*Congeable*, cometh of the french (*conge i. venia*) It signifieth in our common law, as much as lawfull or lawfully done; as the entry of the disseisee is congeable. *Littleton. fo. 91. in meo.*

*Conisance*, See *Cognisance*.

*Conizour*, alias *cognizour* (*recognitor*) cometh of the French (*cognoistre. i. cognoscere, cernere*) and is vsed in the passing of fines for him, that doth acknowledge the fine; and the conizee is hee, to whome it is acknowledged. *West. parte. 1. symbol. li. 2. sect. 49. & parte 2. titulo. Fines sectio. 114.* See *Recognizour*.

*Coniuration* (*coniuratio*) is the very French word drawne from the latine, which as it is compounded of (*con & iuro*) so it signifieth a compact or plot, made by men combining themselves together by oath or promise, to doe some publique harme. But in our common lawe, it is especially vsed for such as haue personall conference with the deuill or euill spirit, to know any secret, or to effect any purpose. *anno 5. Eliza. ca. 16.* And the difference that I haue obserued (how truly let those iudge that be better skilled in these maters) betweene coniuration and witchcraft, is because the

the one seemeth, by prayers and invocation of Gods powerfull names, to compell the devill, to to say or doe what he commaundeth him: the other dealeth rather by a friendly and voluntarie conference or agreement betweene him or her and the deuill or familiar, to haue her or his desires and turnes serued in lieu of blood, or other gift offered vnto him, especially of his or her soule. And both these differ from inchawntments or sorceries, because they are personall conferences with the deuill, as is said: but these are but medicines and cerimoniall formes of words (called commonly charmes) without apparition.

*Consanguineo*, is a writ, for the which See *Avo*: and See the *Register orig. De ano, pro uxo, & consanguineo. fo. 226. a.*

*Conservatour of the truce and safe conduits* (*conservator induciarum & saluorum regis conductuum*) was an officer appointed in euery port of the Sea, vnder the Kings letters patents, and had 40. pound for his yearely stipend, at the least. His charge was to enquire of all offences done against the Kings truce & safe conduits, vpon the maine sea out of the countries, and out of the franchises of the Cinque ports of the king, as the admirals of custome were wont

and such other things as are declared. *anno 2. H. 5. ca. 6.* Touching this materyou may read another statut. *anno 4. H. 5. cap. 7.*

*Conservatour of the peace* (*conservator vel custos pacis*) is he that hath an especiall charge by vertue of his office, to see the kings peace kept. which peace learned *M. Lamberd* defineth, in effect, to be a withholding or abstinence from that iniurious force and violence, which boysterous and vnruely persons are in their natures prone to vse toward others, were they not restrained by lawes and feare of punishment. Of these conservators he farther saith thus: that before the time of K. Edward the third, who first erected Iustices of peace, there were sundrie persons, that by the common lawe had interest in keeping of the peace. Of those some had that charge as incident to their offices, which they did beare, and so included within the same, that they were neuer the lesse called by the name of their office only: some others had it simply as of it selfe, and were thereof named *custodes pacis*, wardens or conservators of the peace. The former and later sort he againe subdivideth. Which read in his *cirenarcha. li. i. ca. 3.*

*Consi.*



*Consideration*, (*consideratio*) is that with vs, which the *Grecians* called *συναλλαγμα*: that is, the materiall cause of a contract, without the which no contract bindeth. This consideration is either expressed, as if a man bargain to giue 20. shillings for a horse: or els implied, as when the law it selfe inforceth a consideration; as if a man come into a common Inne, and there staying sometime, taketh both meat and lodging, or either for himselfe and his horse: the lawe presumeth, that he intendeth to pay for both, though nothing be farther couenanted betweene him and his host: and therefore if he discharge not the house, the host may stay his horse. *Fulb: parel: tracta. Contracts fo. 6. a. b.*

*Consistory* (*consistorium*) is a word borrowed of the *Italians*, or rather *Lombards*, signifying as much as (*pratorium*) or *tribunal*. *vocab. viriusq. iur.* It is vsed for the place of iustice in the courte christian.

*Conuocation house* (*domus conuocationis*) is the house, wherein the whole clergie is assembled, for consultation vpon maters ecclesiasticall in time of parliament. And as the house of Parliament, so this consisteth of two distinct houses, one called the higher conuocation house, where the Archebishops

and Bishops sitte generally by themselves: the other the lower conuocation house, where all the rest of the clergy are bestowed. See *Prolocutor*.

*Conuifance*. See *Cognifance*.

*Conuizour*. See *Cognizour*.

*Consolidation* (*consolidatio*) is vsed for the combining, and vnit- ing of two benefices in one. *Brooke titulo. Vnion*. This word is taken from the civile lawe, where it signifieth properly an vnit- ing of the possession, occu- pation, or profit with the pro- perty. For example, if a man haue by legacie *usufructum fundi*, and after ward buy the property or fee simple (as we call it) of the heire, *hoc casu con- solidatio fieri dicitur. §. 2. De usu- fructu in Institut.* See *Vnion*, and *Vnitie of possession*.

*Conspiracie* (*conspiratio*) though both in Latine and French, it be vsed for an agreement of men, to doe any thing either good or bad: yet in our lawyers bookes, it is alway taken in the evill part. It is defined. *anno. 34. Ed. pri. statut. 2.* to be an agreement of such, as doe confedre or binde themselves by oath, covenant, or other aliyance, that everie of them shall beare and ayde the o- ther falsly and maliciously to in- dight, or falsly to mooue or main- taine plects, and also such as cause childre within age, to appeale me

of

of felonie, whereby they are imprisoned, and sore griued: and such as retene men in the contries with lueries or feeſe, to maintaine their malicious enterpriſes. And this extendeth as well to the takers, as to the givers. And Stewards and bayliſes of great lords, which by their ſeignorie, office, or power, vnder take to beare or maintaine quarels, plees, or debates that concerne other parties, then ſuch as touch the eſtate of their lords, or themſelues. *anno 4. Ed. 3. cap. 11. anno. 3. H. 7. ca. 13. & of this ſee more. an. 1. H. 5. c. 3. & an. 18. H. 6. c. 12.* as alſo in the new book of *etries. ver. Coſpiracy.*

*Conſpiracie*, in the places before mentioned, is taken more generally, and is confounded with maintenance and champer-tie. But in a more ſpeciall ſignification, it is taken for a confederacie of two at the leaſt, falſly to endict one, or to procure one to be indicted of felonie. And the puniſhment of conſpiracie, vpon an endictment of felonie, at the kings ſuyre, is that the partie attainted, leeſe his franke lawe, to the intent that he be not empaneled vpon iuries or aſſiſes, or ſuch like employments, for the teſtifying of truth. And if he haue to doe in the kings court, that he make his attorney: and that his

lands, goods and chatels be ſeized into the kings hands, his lands eſtreaped (if he finde no better fauour) his trees rased, and his body committed to priſon. *27. lib. aſſiſ. 59. Cromptons Inſtice of peace. fo. 156. b.* This is called vilanous iudgement or puniſhment. See *Vilanous iudgement*. But if the partie griued ſlew vpon the writ of conſpiracie, then ſee. *Fitzh. nat. br. f. 114. D. 115. I.* Conſpiracie may be alſo in caſes of leſſe weight. *Idem. fo. 116. A. & c.* See *Franke law.*

*Conſpiratione*, is a writ that lieth againſt conſpiratours. *Fitz. nat. br. fo. 114. d. Cromptons iuriſd. fo. 209.* See alſo the *Regiſt. fo. 134.*

*Conſtable* (*conſtabularius vel conſtabulis*) is a Saxon word, compounded of (*cuning* or *cynig*) and (*ſtaple*) which doe ſignifie the ſtay and hold of the king. *Lamb. duties of conſtables. nu. 4* But I haue heard it made heretofore of theſe two words, (*comes ſtabuli*) which ſeemeth to me the more probable, becauſe we haue this officer from France, as moſt others, and not from the Saxons. And *Tilius* in his commentaries (*de rebus gallicis*) li. 2. ca. de conſtabili, hath the ſame etymologie, giuing the reaſon thereof, (*quia præſt ſtabulo. i. equili regis*) which office is auncient heere in England, and mentioned by *Bracton*, ſeeming



to answer him, that was called (*tribunus celerum*) vnder the first kings of Rome, and (*Magister equitum*) afterward. The Germans that inhabite the side of the riuer *Rhene*, note him by this title (*die constoster*) and in counterfeite latine (*constofelerius*) and in owlder time (*constafolarius*) that the Romanes were wont to tearme (*assessorum iudicij*) And (as *Spiegelius* in his lexicon noteth, deriue the word (*astafolo comitis*. i. *gradu iudicij fiscalis*. For *staffel* in their language (as he saith) signifieth a grees or steppe of a paire of staires. And therevpon (*staffelstein*) being a word vsed in their very awncient writings, signifieth as much as *prætorium*. But a man many times may shew in this kinde more curiositiethen discretion: as perhaps some will iudge me heere to haue done. And therefore enough of this. This word is diuersly vsed in our common law: first forthe constable of England, who is also called marshiall. *Stann. pl. cor. fo. 65.* of whose great dignitie and authoritie a man may find many arguments and signes both in the statutes and chronicles of this realme. His sway consisteth in the care of the common peace of the land, in deedes of armes, and maters of warres. *Lamb. ubi supra* with whome agreeth the statute.

anno. 12. R. 2. ca. 2. stat. 1. *Smith de Repub. Anglo. li. 2. c. 25.* Of this officer or magistrate *M. Gryn* in the preface to his readings saith to this effect: The court of the constable and marshiall determineth cōtracts touching deeds of armes out of the realme, and handlerh things cōcerning wars within the realme; as combats, blasōs of armorie, &c. But it may not deale with battel in appeales, nor generally with any other thing that may be tried by the lawe of the land. And reade *Fortescue ca. 32.* This office was belonging heeretofore to the lords of certaine maners, *iure feudii*: and why it is discontinued, see *Dyer. fo. 258. nu. 39.* Out of this high magistracie (saith *M. Lamberd*) were drawen these lower constables, which we call constables of hundreds & franchises, and first ordeined by the statute of *Winchester*, anno. 13. Ed. 1. which appointeth for the conseruation of the peace, and view of armour, two constables in euery hundred and franchise, which in latine are called *constabularii capitales*. And these be nowe a daies called high constables: because continuance of time, and increase both of people and offenses, hath againe vnder these made others in euery towne called petit constables, in latine (*subconstabularios*) which

are of like nature but of inferior authoritie to the other, as you may read at large in that learned mans treatise before named. Of these also read *S. Thomas Smith li. 2. ca. 22.* Beside these there be officers of particular places, called by this name; as constable of the tower, *Sancti. pl. cor. fol. 152. & anno. 1. H. 4. ca. 13. Stowes annals pa. 812. iurisdic. fo. 132.* constable of the exchequer. *anno. 51. H. 3. statute. 5.* Constable of Dover castel. *Camdeni Britan. pa. 239. Fitzh. nat. br. fo. 240.* otherwise called *castellane. Westm. i. ca. 7. anno. 3. Ed. i.* But these be *castellani* properly. as *M. Lamberd.* noteth, though conioined in name with the others. See the *statute. anno. 32. H. 8. ca. 38. M. Manwood parte. prima. ca. 13.* of his forest lawes, maketh mention of a constable of the forest.

*Consuetudinibus & seruiciis*, is a writ of right close, which lyeth against the tenent, that deforceth his lord of the rent or seruice dew vnto him. Of this see more at large the *Old nat. br. fo. 77. Fitzh. eodem. fo. 151.* and the *Register orig. fo. 159.*

*Consultation*, (*consultatio*) is a writ whereby a cause, being formerly remoued by prohibition from the ecclesiasticall court, or court christian, to the kings court, is returned thither a-

gaine. For the Iudges of the kings court, if vpon comparing the libell with the suggestion of the party, they do find the suggestion false, or not proued, and therefore the cause to be wrongfully called from the court christian; then vpon this consultation or deliberation, they decree it to be returned againe, wherevpon the writ in this case obtained, is called a consultation. Of this you may reade the *Register orig. fo. 44. 45. & c. vsq. fol. 58. Old nat. br. fo. 32. & Fitzh. eodem. fo. 50.*

*Contenement*, (*contenementum*) seemeth to be the free hold land, which lyeth to a mans teneement or dwelling house, that is in his owne occupation. For in *magna charta. ca. 14.* you haue these words: A free man shall not be amerced for a small fault, but after the quantity of the fault: and for a great fault, after the maner thereof, sauing to him his contenement or free hold. And a merchant likewise shalbe amerced sauing to him his merchandies: and any other villaine then owens, shalbe amerced sauing his wainage, if he take him to our mercy. And *Bracton. li. 3. tracta. 2. ca. 1 nu. 3.* hath these words: & sciendum, quod miles & liber homo non amercabitur, nisi secundum modum delicti. secundum quod delictum



*fuit magnum vel paruum, & salvo  
contentamento suo: mercator vero  
non nisi salva merchandiza sua, &  
villanus nisi salvo Warrigio suo.*  
which mercy seemeth to haue  
bene learned from the ciuile  
lawes: whereby (*executio non po-  
test fieri in boues, ar.ura, aliaue  
instrumenta rusticorum. l. execu-  
tes & Authen. Agricultores. Co:  
qua res pign. oblig. a. nec in stipendia,  
arma, & equos militum. l. stipendi-  
a. Co. de executio. rei iudica. & ibi  
doctores. nec in libros scholarium.  
glos. in. l. Nepos Proculo. verbo.  
dignitate. π. de verbo: significa. Que  
tamen rusticorum, militum, & scho-  
larium privilegia circa executionem  
vera esse, & eatenus obtinere intel-  
ligenda sunt, quatenus alia bona  
habent. Iohan. Eimericus in processu  
iudiciario: cap. de Executione sen-  
ten. 79. num. 11.*

Continuance, seemeth to bee  
vsed in the common law, as *pro-  
rogatio* is in the ciuile lawe. For  
example: Continuance vntil the  
next assise. *Entz. nat. br. fol. 154.  
F. and 244. D.* in both which  
places it is sayde, that if a record  
in the tresurie be alledged by  
the one partie, and denyed by  
the other: a (*certiorari*) shall be  
siewed to the Treasurer, and the  
chamberlaine of the Exchequer:  
who, if they certifie not in the  
Chauncerie, that such a record is  
there, or that it is likely to  
be in the Tower: the king

shall send to the Iustices repea-  
ting the (*certificate*) and will  
them to continue the assise. In  
this signification it is likewise  
vsed by *Kitchin. fol. 202. & 199.*  
and also anno 11. *H. 6. cap. 4.*

*Continuall claime* (*continuum  
clameum*) is a claime made from  
time to time. Within euery yere  
and day, to land or other thing,  
which in some respect we can-  
not attaine without daunger.  
For example, if I be disseised of  
land, into which, though I haue  
right vnto it, I dare not enter for  
feare of beating: it behooueth  
me to hold on my right of entry  
to the best oportunitie of me &  
mine heyre, by approching as  
neare it as I can, once euery yere,  
as long as I liue: and so I saue the  
right of entry to mine heire.  
*Termes of law.* Againe, if I haue  
a slave or villein broken from  
me, and remaining any where  
within the auncient demesne of  
the king, being in the handes of  
the king, I cannot maintaine the  
writ *de nativo habendo*, as long as  
he continueth there: but if I  
claime him within the yere and  
the day, and so continue my  
claime, vntill I can find him with-  
in that compass: I may lawfully  
lay hold of him as mine owne.  
*Entz. nat. br. fol. 79.* See more in  
*Litleton, verbo Continuall claime.*  
And the new booke of Entries.  
*Ibid. and Fleta. lib. 6. cap. 53.*

*Contrast* (*contractus*) is a covenant or agreement with a lawfull consideration or cause. *West. parte prim. symbol. lib. 1. Sect. 10. and lib. 19. π. de verbo: Significa.* with other places, it is thus defined: *Contractus est negotium inter duos pluresve data opera gestum, ut vel uterque invicem, vel alteruter obligetur.* Who so will thoroughly examine the difference betweene this and (*pactū*) and such other words something like in signification: let him search the civilians, and he shall find worke both pleasant and profitable, and well fitting the common lawe also.

*Contra formam collationis*, is a writ that lyeth against an abbot or his successor, for him (or his heire) that hath given land to an Abbey, to certaine good vses, and findeth that the Abbot or his successor hath made a feoffment thereof, with the assent of the tenants, to the disherison of the house or church. This is founded vpon the statute of *Westm. 2. cap. 41.* And of this see the *Regist. orig. fol. 238.* and *Fitzh. nat. br. fol. 210.* And note that the author of the Termes of law saith, that this is not brought against the tenant or alienee.

*Contra formam feoffamenti*, is a writ, that lyeth for the heire of a tenant in feoffed of certain lands or tenements, by charter of feof-

ment by a Lord, to make certain seruices and suites to his court, and is afterward distreined for more, then is contained in the said charter. *Regist. orig. fol. 176. old nat. br. fol. 162.* and the Termes of the lawe.

*Contribuione facienda*, is a writ that lieth in case where more are bound to one thing, & one is put to the whole burden. *Fitz. nat. br. fo. 162.* bringeth these examples. If tenērs in cōmon or ioynt, hold a mill (*pro indiviso*) & equally take the profits therof, the mill falling to decay, & one or more of the, refusing to contribute toward the reparation therof, the rest shall haue this writ to cōpell the. And if there be 3. coparceners of land, that owe suite to the lords court, & the eldest perform the whole: then may she haue this writ to compell the other two to a cōtributiō of the charge or to one of them, if one only refuse. The *old nat. br.* frameth this writ to a case, where one onely suite is required for land, & that land being sold to diuers, suite is required of them all, or some of them by distresse, as intirely, as if all were still in one. *fol. 103.* See the *Regist. orig. fol. 176.*

*Controll'er* (*contrarogulator*) cōmeth of the French (*contrerouleur. i. antigraphus, grace d'inspeçtion.*) which in Rome was vsed for him, *cui id muneris inunctum erat,*



ut observaret pecuniam, quam in v-  
sua Principis vel civitatis collige-  
runt exaltiores. Budæus in annota-  
prio, in pand. titulo De officio quæsto-  
ris. In England we have diuers  
officers of this name: as control-  
ler of the kings house, *pl. cor. fol.*  
*52. & anno 6. H. 4. cap. 3.* con-  
troller of the nauie. *anno 35. Eli-*  
*zabeth. cap. 4.* controller of the  
custome. *Cromptons Iurisd. fol.*  
*105.* controller of *Calis. anno 21*  
*Rich. 2. cap. 18.* controller of the  
Mint. *anno 2. H. 6. cap. 12.* con-  
troller of the hamper, (*Contra-*  
*rotulator Hamperii*) which is an  
officer in the Chauncerie atten-  
ding on the Lord Chaunceler or  
Keeper daily in the terme time,  
and dayes appointed for sea-  
ling. His office is to take all  
things sealed from the clerke of  
the hanaper, inclosed in bags of  
lether, as is mentioned in the said  
clerkes office, and opening the  
bags to note the iust number, &  
especiall effects of all thinges so  
receiued, and to enter the same  
into a speciall booke, with all  
the duties appertaining to his  
Maiestie, and other officers for  
the same, and so chargeth the  
clerke of the hanaper with the  
same. Controller of the Pipe,  
(*contrarotulator Pipe*) who is an  
officer of the Exchequer that  
writeth out summons twice eue-  
ry yeare to the Shyreuees, to le-  
vie the Fermes and debts of the

Pipe, and also keepeth a contra-  
rolment of the Pipe. Controller  
of the pell, is also an officer of the  
Exchequer, of which sort there  
be two, *viz.* the two chamber-  
laines clerkes, that do or should  
keepe a controlment of the pell  
of receipts and goings out. And  
in one word, this officer was o-  
riginally one, that tooke notes  
of any other officers accompts  
or receipts, to the intent to dis-  
couer him, if he dealt amisse, and  
was ordained for the Princes  
beter securitie, howsoever the  
name sithence may be in some  
things otherwise applyed. To  
the prooffe whereof you may  
take these few words out of *Ele-*  
*ta. lib. 1. cap. 18. in prin. Qui cum*  
*fuerint ad hoc vocati & electi,*  
(speaking of the coroners) *atta-*  
*chiari precipiant appella: qui & ca-*  
*pitula corone in comitatu presentit.*  
*contra quos vicecomes loci habeat*  
*contrarotulum, tam de appella &*  
*inquisitionibus, quam aliis officium*  
*illud tangentibus, &c.* Which  
(*contrarotulum*) is nothing else,  
but a paralel of the same quality  
and contents with the *πρόσλο-*  
*γος*, or originall. This also ap-  
peareth by *anno 12. Ed. 3. ca.*  
*3.* And this signification it see-  
meth to haue also in *Fraunce.* For  
there the king hath his receyuers  
of taylles in euery prouince, and  
controllers, *qui ad maiorem fidem*  
*susceptoribus accedunt, describunt,*

*intabulis que colliguntur. Gregorius syntagm. lib. 3. cap. 6. num. 6.*

*Conventione*, is a writ, that lyeth for the breach of any covenant in writing. *Register orig. fo. 185. Old nat. br. fo. 101. Fitzh. calleth a writ of covenant. nat. br. fo. 145.* who devideth covenants into personall and reall, making a sufficient discourse of them both: as also how this writ lyeth for both.

*Conuict*, (*convictus*) is he that is founde guilty of an offence by the verdict of the iurie. *Stawf. pl. cor. fo. 186. yet Master Crompton out of Iudge Dyers commentaries 275. saith, that conuiction is, either when a man is outlawed, or appeareth and confesseth, or els is founde guilty by the inquest. Crompt. Inst. of peace. fo. 9. a. Conuiction and attainder are often confounded. li. 4. fo. 46. a. b. See Attaint.*

*Coparceners*, (*participes*) be otherwise called parceners: and in common law, are such as haue equall portion in the inheritance of their auncestour. and, as *Littleton* in the beginning of his third booke saith, parceners be either by law or by custome. Parceners by law, are the issue femall, which (noe heyre male being) come in equality to the lands of their auncestours. *Bract. li. 2. ca. 30.* Parceners by custome, are those that by custome

of the country, challenge equall part in such lands: as in Kent by the custome calle d( *Gavel Kinde* ) This is called *adequatio* among the Feudists. *Hot. in verbis feud. verbo. Adequatio.* And among the ciuilians it is tearmed *familios erciscunde iudicium. quod inter coheredes ideo redditur, ut & hereditas diuidatur, & quod alterum alteri dare facere oportebit, prestetur.* *Hotoman.* Of these two you may see *Littleton* at large in the first and second chapters of his third booke, and *Britton cap. 27. intituled De heritage diuisable.* The crowne of England is not subiect to coparcinory. *anno. 25. H. 8. ca. 22.*

*Copie*, (*copia*) commeth from the french *copia*, i. *le double de quelque escripture, latine descriptio, græce ἀπογραφον*, and signifieth in our common language, the example of an originall writing: as the copie of a charter, the copie of a court rolle.

*Copia libelli deliberanda*, is a writ that lyeth in case where a man cannot get the copie of a libell at the hands of the Iudge ecclesiasticall. *Register orig. f. 51.*

*Copiehold*, (*tenura per copiam rotuli curie*) is a tenure, for the which the tenent hath nothing to shew, but the copie of the rols made by the steward of his lords court. For the steward, as he inrolleth, and maketh remembrances



membrances of all other things done in the lords court: so he doth also of such tenents, as be admitted in the court, to any parcell of land or tenement belonging to the maner: and the transcript of this, is called the court rowle: the copie whereof the tenent taketh from him, and keepeth as his onely euidence. *Coke. li. 4. fo. 25. b.* This tenure is called a base tenure, because it houldeth at the wil of the lord. *Kitchin. fo. 80. chap.* copihoulds. *Fitzh. nat. br. fo. 12. B. C.* who there saith, that it was wont to be called tenure in villenage, and that this copihould is but a new name. Yet is it not simply at the will of the lord, but according to the custome of the maner. So that if a copie houlder breake not the custome of the maner, and thereby forfeit his tenure, he seemeth not so much to stand at the lords courtesie for his right, that he may be displaced hand ouer head at his pleasure. These customes of maner be infinit, varying in one point or other, almost in euery seuerall maner. First, some copie-hould is fineable, and some certaine: that which is fineable, the lord rateth at what fine or income he pleaseth, when the tenent is admitted vnto it: that which is certaine, is a kinde of inheritance, and called in many places

customary: because the tenent dying, and the hould being void the next of the blood paying the custumarie fine, as two shillings for an acre or such like, may not be denied his admission. Secondly, some copihoulders haue by custome, the wood growing vpon their owne land, which by law they could not haue. *Kitchin ubi supra.* Thirdly, copiholders, some be such as hold by the verge in ancient demesne: & although they hold by copie, yet are they in accompt a kind of Free-holders. For, if such a one commit felonie, the king hath (*annum, diem, & vastum*) as in case of Freehold. Some other hold by common tenure, called meere copie hold: and they committing felonie, their land escheateth to the Lord of the maner forthwith. *Kitchin fol. 81. chap. Tenents per verge in ancient demesne.* What auncient demesne is, see in the right place. See *Tenant by copie of courtrolle.* This is the land that in the Saxons time, was called Folk land. *Lamberd, explicat. of Saxon words. verbo, Terra ex scripto. West. parte prim. symbol. lib. 2. Sect. 646.* defineth a copiholder thus: Tenant by copie of courtrolle, is he which is admitted tenent of any lands or tenements within a maner, that time out of the memory of man,

may attend vpon such an office. Ye there is a writ in the *Register*, *Nisi sit miles. fo. 177.b.* whereby it appeareth, that it was sufficient cause to remooue a coroner chosen; if he were not a knight, and had not a hundred shillings rent of freehold. And the Lord cheife Iustice of the kings bench, is the soueraigne coroner of the whole realme in person. i. wherefocuer he remaineth. *libro assisarum fo. 49.5. coron.* *Coke. li. 4. casu. de Wardens, &c. of the Sadlers. fo. 57.b.* His office especially concerneth the plects of the crowne: but if you will reade at large, what aunciently belonged vnto him: reade *Bracton. li. 3. tra. 2. c. 5. de officio coronatorum circa homicidium.* and *ca. 6. de officio coronatoris in thesauris inventis.* & *ca. 6. de officio coronatorum in raptu virginum* and *ca. 8. de officio coronatorum de pace & plagis.* and *Britton* in his first chapter, where he handleth it at large. *Fleta* also in his first booke *cap. 18.* and *Andrew Horns mirrour of Iustices. li. 1. ca. del office del coroners.* but more aptly for the present times, *Starrs. pl. cor li. 1. ca. 51.* Note there be certaine coroners speciall within diuers liberties, as well as these ordinarie officers in euerie countie: as the coroner of the verge, which is a certaine compas about the kings court. whome *Crompt.* in

his *iurisd. fo. 102.* calleth the coroner of the kings house: of whose authoritie see *S. Ed. Cokes reportes. lib. 4. fo. 46. a.b.* And I know certen charters belonging to colledges and other corporations, whereby they are licēsed to appoint their coroner within their owne precincts. Farther of this office see also *Fitzb. nat. br. fo. 76. A. B. S. Thomas Smith. li. 2. ca. ca. 21. de repub. Anglo. and Lamb. crenarcha. li. 4. ca. 3. pa. 380.* And the office of the coroner in Scotland. what it is, read *M. Iohn. Skene de verbo. signifi. verbo. Iter.*

*Corporation (corporatio)* is that which the civile law calleth *universitatem*, or *collegium*. a bodie politique authorised by the kings charter, to haue a common seale, a head officer, one or more, and members able by their common consent, to graunt or to receiue in law any thing within the compas of their charter: euen as one man may doe by law all things, that by lawe he is not forbidden: and bindeth the successours, as a single man bindeth his executour or heyre. See *Brokes* his abridgment. *titulo Corporation*, and the newe *Termes of lawe. eodem.*

*Corpus cum causa*, is a writ issuing out of the Chauncerie, to remooue both the bodie and



the record touching the cause of any man lying in execution, vpo a iudgement for debt into the Kings bench, &c. there to lye vntill he haue satisfied the iudgement. *Fitzh. nat. br. fol. 251. E.*

*Corrector of the staple*, is an officer or clerke belonging to the staple, that writeth and recordeth the bergains of Merchants there made, *anno 27. Ed. 3. stat. 2. cap. 22. & 23.* The Romanes called them *Mensarios*.

*Corruption of blood*, is an infection growing to the estate of a man attainted of felonie or treason, and to his issue. For as he leeseeth all to the Prince, or other lord of the fee, accordingly as his case is, so his issue cannot be heires to him, or to any other auncester, of whom they might haue claimed by him. And sarder if he were noble, or a gentleman before, he and his children are made vnnoble and vngentle in respect of the father. Newe Tearmes of the lawe.

*Corse present*, are words borrowed from the French, signifying a mortuarie. *anno 21. H. 8. ca. 6.* The true French is (*corps presente*) i. the bodie presented or tendered. The reason why the mortuarie is thus also tearmed, seemeth to be, for that where a mortuarie was wont to be due, the bodie of the best beast was according to the law or custome

offered or presented to the priest.

*Corselet*, is a French word signifying a litle bodie, in Latine (*corpusculum*.) It is vsed with vs, for an armor to couer the whole bodie, or trunk of a man. *anno 4. & 5. Ph. & Mar. cap. 2.* wherewith the pikemen, commonly set in the front and flanks of the battaile, are armed, for the beter resistance of the enemies assaults, and the surer guard of the gunners placed behind or within them, being more sleightly armed, for their speedier issuing in and out to discharge their peeces. See *Barreys* discourse of Warre. *lib. 3. dialog. 2.*

*Cosenage*, (*cognatione*) is a writ, that lyeth where the trespasse (that is, tritauus, the father of the besaile, or of the great grandfather) is seysed in his demesne as of fee, at the day of his death, of certaine lands or tenements, and dyeth: and then a straunger entreth and abateeth. For then shall his heyre haue this writ of *cosenage*: the forme whereof see in *Fitz. nat. br. fol. 221.* Of this also reade *Britton* at large. *cap. 89.*

*Cosening*, is an offence vnnamed, whereby any thing is done guilefully in or out of contracts, which cannot be fitly termed by any speciall name. *West. parte. 2. simbologr. titulo. Indictments. sect. 68.* It is called *stellionatus* in the ciuile lawe of (*stellio*) the beast

beast, which is *lacerta genus vir-*  
*furissimum*, as *Cuiacius* in his *pa-*  
*ratiles* calleth it, and, *quo nullum*  
*animal homini invidet fraudulentis.* *Plinie* li. 3. ca. 10.

*Cotage* (*cotagium*) is a house  
without land belonging vnto it.  
*anno. 4. Ed. pri. statut. primo.* And  
the inhabitant of such a house is  
called a *cotager*. But by a later  
statute, no man may builde a co-  
tage, but he must lay 4. acres of  
ground vnto it. 31. *Eli. ca. 7.*

*Cote*, is a kind of refuse wolle  
clung or clotted together, that it  
cannot be pulled asunder. *anno.*  
*13. R. 2. stat. 1. ca. 9.* It signifieth  
also as much as *cotage* in many  
places, as also it did among the  
Saxons. *Versegan* in his *Restitut.*  
*of decayed intelligēce in antiquities.*

*Covenable* (*rationabilis*) is a  
French word, signifying fitte or  
convenient, or futeable. *covenab-*  
*ly endowed* *an. o. 4. H. 8. ca. 12.*  
It is aunciently written (*conve-*  
*nable*) as in the *stat. an. 27. Ed. 3.*  
*stat. 2. ca. 17.*

*Covenāt. conuētio*, is the consēt of  
two or more in one self thing, to  
doe or giue somewhat. *West. part.*  
*2. symbol. li. 3. sect. 4.* It seemeth to  
be as much as. (*pactum. conven-*  
*tum*) with the ciuilians. which  
you read often times in *Tullie.*  
*Pactum conuentum, quod & vulgo*  
*vestitum vocant, opponitur nudo*  
*pacto, velut ab omni iuris solennita-*  
*te destituto. Huius exempla ponere*

*difficile esse Iason existimavit. Con-*  
*uentum aiunt, quod vestitur, aut re,*  
*aut verbis, aut literis, aut contractus*  
*coherentia, aut rei interuentu.* *Ol-*  
*dendorpius.* And *covenant* in this  
signification, is either a *cove-*  
*nant in lawe*, or a *covenant in*  
*fact.* *Coke. lib. 4. Nokes case. fo. 80.*  
or *covenant expresse & coue-*  
*nant in lawe.* *idem. li. 6. fo. 17. a.*  
*Covenant in law* is that, which  
the law intendeth to be made,  
though in words it be not ex-  
pressed: as if the lessour doe di-  
mise and graunt, &c. to the leas-  
see for a certaine tearme, the  
lawe intendeth a *covenant of*  
the lessours part, that the lessee  
shall, during his whole terme,  
quietly inioy his lease against all  
lawfull encumbrance. *Covenant*  
in fact is that, which is expresse-  
ly agreed betweene the parties.  
There is also a *covenant meere-*  
*ly personall*, and a *covenant reall.*  
*Fitzh. nat. br. fo. 145.* And he see-  
meth to say, that a *covenant re-*  
*all* is, whereby a man tieth him-  
selfe to passe a thing reall, as  
land or tenements, as a *coue-*  
*nant to leuie a fyne of land*, &c.  
a *covenant meere-*  
*ly personall of*  
the other side, is where a man  
*covenanteth* with another by  
deede, to build him a house, or a-  
ny other thing, or to serue him,  
or to infeoffe him &c. *Covenant*  
is also the name of a writ, for  
the which see *Conuentione. Instru-*



ments of couenants you may see good store in *West parte. i. Symboleog. li. 2. sectio. 100.* See also the new booke of entries. *verbo: Couenant.*

*Conent*, (*conuentus*) signifieth the society or fraternity of an abbie or priorie, as (*societas*) signifieth the number of fellowes in a colledge. *Bracton. li. 2. ca. 35.* It commeth of the french (*conuent. i. cœnobium*).

*Couerure*, is a french word signifying any thing that couereth, as apparell, a couerlet, &c. and deduced from the verb (*con-urir. i. regere*) It is particularly applied in our common lawe, to the estate and condition of a married woman, who by the lawes of our realme, is in (*potestate viri*) and therefore disabled to contract with any, to the prejudice of her selfe or her husband, without his consent and priuity; or at the least, without his allowance and confirmation. *Broke. hoc tit. per totum.* And *Bracton* saith, that *omnia quæ sunt uxoris, sunt ipsius viri, nec habet uxor potestatem sui, sed vir. li. 2. ca. 15.* and that (*vir est caput mulieris*) *li. 4. ca. 24.* and againe; that in any law matter, *sine viro respondere non potest. li. 5. tract. 2. ca. 3.* and *tract. 5. ca. 25. eiusdem libri.* he hath words to this effect: *vir & uxor sunt quasi unica persona: quia caro una & sanguis u-*

*nus. Res licet sit propria uxoris, vir tamen eius custos, cum sit caput mulieris.* and *li. 1. ca. 10. nu. 2. Vxor est sub virga viri.* And if the husband alienate the wifes land, during the marriage, shee cannot gaine say it during his life. See *Cui ante diuortium.* and *Cui in vita.*

*Covine*, (*covina*) is a deceitfull assent or agreement betweene two or more, to the prejudice or hurt of another. New terms of lawe. It commeth of the french verb (*conuenancer. i. depacisci.*) or rather (*conueniri. i. conuenire.*)

*Cowcher*, signifieth a factour that continueth in some place or country for trafique. *anno. 37. Ed. 3. ca. 16.* It is vsed also for the generall booke, into which any corporation entreteth their particular acts for a perpetuall remembrance of them.

*Compte*, cometh of the french (*compte. i. subduclius, cœputatio, ratio*) or of (*cōte. i. narratio.*) It signifieth as much as the originall declaration in a proces, though more vsed in reall actions then personall, as declaration is rather applied to personall then reall. *Fitzb. nat. br. fo. 16. A. 60. D. N. 71. A. 191. E. 217. A. (Libellus)* with the ciuillius comprehendeth both. And yet count and declaration be confounded sometimes; as count in debt. *Kitchin. fo. 231.* count or declaration in appeale. *pl. cor. fo. 78.*

ant in trespassse. *Britton. cap. 26*  
 bunt in an action of trespassse  
 vpon the case for a slander. *Kit.*  
*fol. 252.* This word seemeth to  
 come from *France & Normandy.*  
 For in the grand Custumarie, c.  
 64. I find (*conteurs*) to be those,  
 which a man setteth to speake  
 for him in court, as aduocates: &  
*cap. 63. (pledeurs)* to be another  
 sort of spokes men, in the nature  
 of Attorneys, for one, that is him  
 selfe present, but suffereth ano-  
 ther to tell his tale. Where also  
 in the 65. chapter, Attourney is  
 said to be he, that dealeth for  
 him that is absent. See this text  
 and Glosse vpo those 3. chapters.  
*Countours* (by *Horn* in his Myrror  
 of Iustices. li. 2. ca. *Des loyers*) are  
 Sergeants skilfull in the lawe of  
 the Realme, which serue the co-  
 mon people, to pronounce and  
 defend their actions in iudge-  
 ment for their fee, when occasio  
 requireth: whose duty, if it be as  
 it is there described, and were  
 obserued, men might haue much  
 more comfort of the lawe  
 then they haue.

*Countenance*, seemeth to be v-  
 sed for credit or estimation, *old*  
*na. br. fol. 111.* in these words: Al-  
 so the attaint shall be graunted  
 to poore men that will sweare,  
 that they haue nothing whereof  
 they may make fine, sauing their  
 countenance, or to other by a  
 reasonable fine. So is it vsed, *anno*

1. *Ed. 3. stat. 2. cap. 4.* in these  
 words: Shyreuees shall charge  
 the kings depters with as much  
 as they may leuie with their  
 oathes, without abating the  
 depters countenance.

*Counter (computatorium)* see-  
 meth to come of the Latin (*com-  
 putare*) or the French (*counter.*) For  
 we vse it for the name of a prisō,  
 wherinto he that once slippeth,  
 is like to accompt ere he get out.

*Counter plee*, is compounded of  
 two French words (*contre. i. con-  
 tra, aduersus*) and (*pleder. i. causam  
 agere.*) It signifieth properly in  
 our common lawe, a replication  
 to (*ayde prier.*) For when the te-  
 nent by courtesie, or in dower,  
 prayeth in ayde of the king,  
 or him in the reuersion, for his  
 beter defence: or else if a stranger  
 to the action begun, desire to be  
 receiued to say what he can for  
 the safegard of his estate: that  
 which the demandant alledgeth  
 against this request, why it shuold  
 not be admitted, is called a coun-  
 ter plee. See *Broke h. 1.* And in this  
 signification it is vsed. *anno. 25.*  
*Ed. 3. stat. 3. cap. 7.* See also the  
 new termes of the law, and the  
 statute *anno 3. Ed. 1. cap. 39.*

*Connty, (comitatus)* signifieth as  
 much as (*shire.*) the one descen-  
 ding from the French, the other  
 from the Saxons, both contei-  
 ning a circuit or portion of the  
 realme, into the which the whole  
 land



land is diuided, for the beter gouernment thereof, and the more easie administration of iustice. So that there is no part of the kingdom, that lieth not within some countie, and euery countie is gouerned by a yerely officer, whom we cal a Shyreue, which among other duties belonging to his office, putteth in execution all the commandements & judgments of the kings courts, that are to be executed within that compasse. *Fortescue cap. 24.* Of these counties there be foure of especiall marke, which therefore are tearmed countie Palatines, as the countie Palatine of *Lancaster*, of *Chester*, of *Durham*, & of *Ely*, *ann. 5. Eliz. 1. c. 23.* I read also of the countie Palatine of *Hexam*, *an. 33 H. 8. ca. 10. Vide quere.* And this countie Palatine is a Iurisdiction of so high a nature, that whereas all plects touching the life or mayhem of man, called plects of the crowne, be ordinarily held & sped in the kings name, & cannot passe in the name of any other; the chiefe gouerners of these, by especiall charter from the king, did heretofore send out all writs in their owne name, and did all things touching iustice, as absolutely as the Prince himself in other counties, only acknowledging him their superiour and Soueraigne. But by the statute. *anno 27. H. 8. c. 25.* this power is

much a bridged, vnto the wh<sup>ch</sup>. I refer the reader, as also to *Crom. Iuris. fo. 137.* for the whole course of this court. Besides these counties of both sorts, there be likewise counties corporate, as appeareth by the statute. *anno 3. Ed. 4. 5.* and these be certaine cities, or auncient boroughs of the land, vpon which the Princes of our nation haue thought good to bestow such extraordinary liberties. Of these the famous city of *London* is one, and the principall, *Yorke* another, *an. 32. H. 8. cap. 13.* the city of *Chester* a third, *an. 42. Eliz. cap. 15.* *Canterburie* a fourth. *Lamb. Eten. 1. 1. cap. 9.* And to these may be added many more: but I haue onely obserued out of the statutes & other writers, the county of the towne of *Kingston upon Hull*, *anno 32. H. 8. cap. 13.* the county of the towne of *Haverford West*, *anno 35. H. 8. cap. 26.* and the county of *Litchfield*. *Cromptons Iustice of peace. fo. 59. a.* County is in another signification vsed for the County court, which the Shyreue keepeth euery moneth within his charge either by himselfe or his deputie, *anno 2. Ed. 6 ca. 25.* *Cromptons Iuris. fo. 221. Bract. li. 3. c. 7. & li. 3. tract. 2. cap. 12.* Of these counties or shires one with another, there are reckoned in *England* 37. beside twelue in *Wales*.  
The

**County court.** The word (*comitatus*) is also vsed for a iurisdiction or territorie among the Feudists.

**Countie court** (*curia comitatus*) by *M. Lambert* is otherwise called (*conuentus*) in his explication of Saxon words, and diuided into two sorts: one retaining the generall name, as the county court held euery moneth by the Shyreue, or his deputie the vnder-shyreue, whereof you may reade in *Cromptons iurisd.* fol. 231. the other called the Turne, held twice euery yeare, which see more at large in his place: and *Cromptons iurisd.* fol. 231. This countie court had in auncient times the cognition of these and other great maters, as may appeare by *Glanvile. lib. 1. cap. 2. 3. 4.* by *Bracton* and *Britton* in diuers places, and by *Fleta. li. 2. cap. 62.* But that was abridged by the statute of *Magna charta. cap. 17.* and much more by *1. Ed. 4. cap. vnico.* It had also, and hath the determination of certaine trespasses, and debts vnder forty shillings. *Britton. cap. 27. & 28.* what maner of proceeding was of old vsed in this court, see *Fleta vbi supra.*

**Courtsour.** See *Cursetour.*

**Court** (*curia*) commeth of the French (*court*) which signifieth the kings palace or mansion, as (*curia*) doth among the Lombards. All these spring of the Latine (*curia*) which signifieth one

of thirty parts, into which *Romulus* diuided the whole number of the Romaines: sometime also the Senate house, as appeareth by *Tully* in his Offices (*nihil est quod dignum nobis, aut in foro aut in curia agere possumus*: which in his oration (*pro Milone*) he calleth, *Templum sanctitatis, amplitudinis, mentis, consilii publici, caput urbis, &c.* Court, with vs, signifieth diuersly: as the house where presently the king remaineth with his ordinarie retinue, and also the place where iustice is iudicially ministred: of which you finde 32. seuerall sorts in *M. Cromptons* booke of *Iurisdiction*s well described. And of them most be courts of record: some be not, and therefore are accounted bale courts in comparison of the rest. Beside these also there are courts Christian. *Smth de repub. Anglor. lib. 3. cap. 9.* which are so called, because they handle maters especially appertaining to Christianitie, and such as without good knowledge in diuinity cannot be well iudged of, being held heretofore by Archb. and Bishops, as from the Pope of Rome: because he chalenged the superioritie in all causes spirituall: but since his election, they hold them by the kings authoritie (*virtute magistratus sui*) as the Admirall of *England* doth his court. Where-



upon it proceedeth, that they send out their precepts in their owne names, and not in the kings, as the Iustices of the kings courts doe. And therefore as the appeale from these courts did lie to *Rome*: now by the statute *an-*  
*25. H. 8. cap. 19.* it lyeth to the king in his Chancerie.

*Court baron (curia baronis)* is a court that euery lord of a maner (which in auncient times were called barons) hath within his owne precincts. Barons in other nations haue great territories and iurisdiction from their Soueraignes: as may be proued out of *Cassanests de gloria mundi. parte 5. consideratio. 56.* by *Vincencius de Franchis de scis. 211.* and many others. But here in *England* what they be, and haue bene heretofore, see in *Baron*. Of this court *Baron* you may reade your fill in *Kirchin*, that writeth a large booke of it, and of a court leete. *S. Edward Coke* in his fourth booke of Reports, amongst his copyhold cases. fol. 26. b. saith, that this court is two after a sort: and therefore if a man hauing a maner in a towne, and do graunt the inheritance or the copyholders' thereunto belonging, vnto another: this grantee may keep a court for the custumarie tenants, and accept surrenders to the vse of others, and make both admittances and

graunts: the other court is of Freeholders, which is properly called the court baron, wherein the sutyters, that is, the Freeholders be Iudges: whereas of the other the Lord or his steward is Iudge.

*Court christian (curia christiana)*  
 See *Court*.

*Court of Pypowders.* See *Pypowders*.

*Court of Requests (curia requestarum)* is a court of equitie, of the same nature with the Chancerie, principally instituted for the helpe of such petitioners, as in conscionable cases deale by supplication with his Maiestie. This court, as *M. Gwin* saith, in the preface to his readings, had beginning from commission first graunted by *Henry the 8.* to the masters of Requests: whereas before that time (by his opinion) they had no warrant of ordinary iurisdiction, but travelled betweene the king and the petitioner by direction from the kings mouth. But *Sir Iulius Cesar* in a Tractate of his, painefully and very iudiciously gathered from the records of the same court, plainly sheweth that this court was *9. Henrici septimi*, though then following the king, and not settled in any certaine place, neither swayed particularly by the Masters of requests, (as now it is) but more at large by others

of the kings most Honourable Councell, whom he pleased to employ in this seruice. For pag. 143. of the said Tractate, you haue the forme of the oath then ministred to those that were Iudges in this court: and *à pag. prim. vsque ad pag. 46.* causes of diuers natures, which in the said kings dayes were there handled and adiudged. This court, as that right Honorable and learned Knight, in a brieft of his vpon the same court plainly proueth, was and is parcell of the kings most Honorable Councell, and so alwaies called and esteemed. The Iudges thereof were alwaies of the kings most Honourable Councell, appointed by the king to keepe his Councell board. The keeping of this court was neuer tyed to any place certaine, but onely where the Councell sate, the suyters were to attend. But now of late for the ease of suyters, it hath bene kept in the White hall at *Westminster*, and onely in the Tearme time. It is a court of Record, wherein recognizances are also taken by the kings Councell. The forme of proceeding in this court, was altogether according to the processe of summarie causes in the ciuile lawe. The persons plaintiffes and defendants, were alwaies either priuiledged, as officers of the court, or their ser-

vants, or as the kings seruants, or as necessarie attendants of them: or else where the plaintiffes pouertie, or meane estate was not matchable with the wealth or greatnesse of the defendant: or where the cause meerely contained mater of equitie, and had no proper remedie at the common law: or where it was specially recommended from the king to the examination of his Councell: or concerned Vniuersities, Colledges, Hospitals, and the like. The causes wherewith they deale, and wherof they iudge, are of all sortes: as maritime, *ultra marine*, ecclesiasticall, temporall; but properly temporall causes, and onely of the other sort, as they are mixt with temporal. The maner of proceeding in the said court, is first, by priue seale, letters milue, or Iniunction, or messenger, or bond. Secondly, by attache-ment. Thirdly, by proclamation of rebellion. Fourthly, by commission of rebellion: fifthly, by Sergeant at armes. The effect of the defendants appearance is, that he attend *de die in diem* on the councell, till he haue made his answer to the plaintiffes bill, and be licenced to depart vpon caution *de iudicio fisti & indicato*



*soluendo*, and constitution of his Attourney and counsell by name. The authoritie of this court is such, as vpon cause to graunt iniunctions for barring the defendant from syewing the plaintiffe at the common lawe: and to stay the suyte at the common lawe before commencement, and not to arrest the bodie of the plaintiffe, till furder order be taken by the Kings counsell: and the execution of a decree in this court may be done, either by imprisonment of the person disobeying, being partie, or claiming vnder the partie: or by leuie of the summe adiudged vpon his lands.

*Courtesie of England (lex Anglia)* commeth of the french (*Courtesie. i. benignitas, humanitas*) but with vs hath a proper signification, being vsed for a tenure. For if a man marie an inherettrice, that is, a woman seised of land in fee simple, or fee taile generall, or seised as heire of the taile speciall, and getteth a childe of her that commeth alieue into the world, though both it and his wife die forthwith, yet, if she were in possession, shall he keepe the land during his life, and is called tenent *per legem Angliae*, or by the courtesie of England. *Glanvil. li. 7. ca. 18. Bracton. li. 5. tracta. 5. ca. 30. nu.*

7. 8. 9. *Britton. ca. 51. fo. 132. Fleta. li. 6. ca. 56. §. lex quadam. Fitzh. nat. br. fo. 149. D. Littleton. li. 1. ca. 4.* It is called the law of England. *Westm. 2. ca. 3.* This is in Scotland called (*curialitas Scotie. Skene de verbo. sign. verbo Curialitas*: who there saith that this is vsed in these two realmes onely, and maketh a large discourse of the custome.

*Coutheutlanghe*, is he that wittingly receiueth a man outlawed, and cheriseth or hideth him. In which case he was in auncient times subiect to the same punishment, that the outlawe himselfe was. *Bracton. li. 3. tracta. 2. ca. 13. nu. 2.* It is compounded of (*couthe. i. knowne, acquainted, familiar, and (utlanghe)* an outlaw, as we now call him.

*Courtillage*, alias *curtilage* (*curtilagium, alias curtilegium*) signifieth a garden, a yard, or a feeld, or peece of voide ground lying neere and belonging to a mesuage, *West. parie. 2. Symbolao. titulo fines. sect. 26.* And so is it vsed *anno. 4. Ed. i. ca. vnico. anno. 35. H. 8. ca. 4. & anno. 39. Elizabetha. ca. 2. and Coke vol. 6. fo. 64. a.* Of this also *Lindwood* thus writeth. *Curilegium vulgare nomen est, non omnium patriarum, sed certarum. Est enim curtis mansio vel manerium ad habitandum cum terris, possessionibus, & aliis emolumentis ad tale manerium pertinentibus.*

ribus, prout satis colligitur in libro feudorum, titulo. de controuersia inuestitura. & si quis de manso. Coll. 10. Vnde curtilegium dicitur locus adiunctus tali curti, ubi leguntur herba vel olera: sic dictus a (curtis) & (lego legis) pro colligere. Thus farre Limwood. titulo de decimis. ca. Sancta. s. omnibus, verbo Curtelegiorum. So that in effect, it is a yard or a garden adioyning to a house.

*Creansour*, (creditor) commeth of the french (croyance. i. persuasio) and signifieth him, that trusteth another with any debt, be it in mony or wares. Old nat. br. fo. 67.

*Cranage*, (cranagium) is a liberty to vse a crane for the drawing vp of wares from the vessels, at any creek of the sea or wharfe, vnto the land, and to make profit of it. It signifieth also the mony payde and taken for the same. New booke of Entries. fo. 3. col. 3.

*Creeke*, (creca, crecca, vel crecum) seemeth to be a part of a haven, where any thing is landed or disburdened out of the sea. So that when you are out of the mayne sea within the haven, looke how many landing places you haue, so many creeks may be said to belong to that haven. See *Cromptons iurisdictiones*. fo. 110. a. This word is

mentioned in the statute, as anno 5. El. ca. 5. and diuers others.

*Creast Tile*. See *Roose tile*.

*Croft*, (croftum) is a litle close or pitle ioyning to a house, that sometimes is vsed for a hemp ground, sometime for corne, and sometime for pasture, as the owner listeth. It seemeth to come of the ould english word (*Creast*) signifying handy craft: because such groundes are for the most part extraordinarily dressed and trimmed by the both labour and skill of the owner.

*Croises*, (cruce signati) be vsed by Britton. ca. 122. for such as are pilgrimes: the reason may be, for that they weare the signe of the crosse vpon their garments. Of these and their priuileges reade *Bracton*. li. 5. parte 2. ca. 2. & parte 5. ca. 29. and the grand custumary of *Normandy* ca. 45. Vnder this word are also signified the knights of the order of *Saint Iohn of Ierusalem*, created for the defence of pilgrims. *Grego. Syntag.* li. 15. ca. 13. & 14.

*Cucking stoole*, (tumbrella) is an engine inuented for the punishment of scolds and vnquiet women, called in auncient time a tumbrell. *Lamb. cirenarcha*. li. 1. ca. 12. po. 62. in meo. *Bracton* writeth this word (tymborella.) *Kitchin*, where he saith, that



euery one hauing view of Frankpledge, ought to haue a pillorie and a tumbrell, seemeth by a tumbrell to meane the same thing. *cap. Charge in court leete. fol. 13.a.*

*Cuth*, other, *uncuth* (*privatus vel extraneus.*) These be old English words, not yet worne out of knowledge, for the which see *Roger Hoveden. parte poster. suorum annalium. fol. 345.a.*

*Cudutlaghe*. See *Conthutlaghe*.

*Cui ante divortium*, is a writ, that a woman diuorced from her husband, hath to recover lands or tenements from him, to whome her husband did alienate them during the mariage: because during the mariage, she could not gaine say it. *Regist. ori. fol. 233. Fitz. nat. br. fol. 204.*

*Cainage*, is a word vsed for the making vp of tinne, into such fashion, as it is commonly framed into for the cariage thereof into other places, *anno 11. H. 7. cap. 4.*

*Cui in vita*, is a writ of entrie, that a widow hath against him, to whome her husband aliened her lands or tenements in his life time: which must containe in it, that during his life time, she could not withstand it. *Regist. orig. fol. 232. Fitz. nat. br. fol. 193.* See the newe booke of

Entries. *verbo. Cui in vita.*

*Cunty cunty* is a kind of triall, as appeareth by *Bracton* in these words: *Negotium in hoc casu terminabitur per cuntye cuntye, sicut inter cohæredes. Bracton. lib. 4. tra. 3. cap. 18.* And againe, in the same place: *In breui de recto negotium terminabitur per cuntye cuntye.* And thirdly, *lib. 4. tract. 4. cap. 2. Terminabitur negotium per breue de recto: ubi nec duellum, nec magna assisa, sed per cuntye cuntye omnino*: which in mine opinion is as much, as the ordinarie Iurie.

*Curfew*, cometh of two French words, (*couvrir. i. tegere.*) and (*feu. i. ignis.*) We vse it for an evening peale, by the which the Conquerour willed euery man to take warning for the raking vp of his fire, and the putting out of his light. So that in many places at this day, where a bell customably is rung toward bed time, it is said to ring curfew. *Stowes annals.*

*Curia auisare vult*, is a deliberation, that the court purposeth to take, vpon any point or points of a cause, before iudgement be resolved on. For this, see the new booke of Entries. *verbo. Curia auisare vult.*

*Curia claudenda*, is a writ, that lyeth against him, who should fence and close vp his ground, if he refuse or deferre to doe it.

*Regist.*

*Register. orig. fo. 155. Fitzh. nat. br. fo. 127.* See also the newe booke of Entrise. *verbo. Curia claudenda.*

*Cursiter* (clericus de cursu, vel *cursista curie cancellaria*) is an officer or clerke belonging to the chancerie, that maketh out originall writs. *anno. 14 & 15. H. 8. ca. 8.* They be called clerks of course in the oathe of the clerks of the chancerie appointed *anno 18. Ed. 3. stat. 5. ca. unico.* There be of these 25. in number, which haue allotted vnto every of them certaine shires, into the which they make out such originall writs, as are by the subiect required, and are a corporation among themselves.

*Curteyn* (*curtana*) was the name of King *Edward the saint* his sword, which is the first sword, that is caried before the kings of this land at their coronation. *Mathaeus Parisiens. in Henrico tertio.* And I haue heard say, that the point thereof is broken: which may argue an embleine of mercie.

*Cursilage.* See *Courrelage.*

*Custode admitendo, & Custode amouendo,* are writs for the admitting or remouing of gardians. *Register. original. in indice.*

*Custom* (*consuetudo*) is all one in signification with our common lawyers and Civilians, being by them both accounted

a part of the lawe. *Consuetudo quandoq; pro lege seruatur* (saith *Bracton*) *in partibus ubi fuerit more utentium approbata. Longum enim temporis usus & consuetudinis non est uilis auctoritas. li. 1. ca. 3.* It may be thus not vnaptly defined: Custom is a lawe or right not written, which being established by long vse and the consent of our awncesters, hath beene and is daily practised: our awncesters, that is (*maiores*), and those of our kindred that are *ultra tritavum. li. 4. §. parentem. π. de ius vocando. l. ult. §. parentes. π. de gradibus & affini. & nominibus eorum.* So that allowing the father to be so much owlder then his sonne, as (*pubertat*) or the years of generation doe require, the grandfather so much elder then him, and soe forth *usque ad tritavum*: we cannot say that this or that is a custom, except we can iustifie, that it hath continued so one hundred yeares. For *tritavus* must be so much elder then the party that pleadeth it: yet because that is hard to prooue: it is enough for the profe of a custom by witnesses in the common lawe (as I haue credibly heard) if two or more can depose, that they heard their fathers say, that it was a custome all their time, and that their fathers heard their fathers also say, that it was likewise a custome in their time. *It*  
be



be to be proved by record, the continuance of a hundred yeares will scruce. Custom is either generall or particular: generall I call that, which is current thorough England: whereof you shall read diuers in the *Doflor* and *Student. li. pri. ca. 7.* very worthy to be knowne. Particular is that, which belongeth to this or that countie, as *Gauelkind* to *Kent*, or to this or that Lordship, citie, or towne. Custom differeth from prescription, for that custom is common to more, and prescription (in some mens opnion) is particular to this or that man. Againe, prescription may be for a farre shorter time then a custom, viz. for five yeare, or for one yeare, or lesse. Example of five yeares prescription you haue in the levyng of a fine. For if a fine duly leuied of lands & tenements be not impugned within five yerres, it excludeth all claime for euer.

And if a man omit his continuall claime for a yeere and a day: then the tenent in possession prescribeth an immunity against the entrie of the demandant and his hoyre. *Fitzh. nat. tr. fo. 79.* *Terms of the law. verbo. Continuall claime:* Out of our statutes you may haue greater diuersitie, which see collected in mine *Institutes. titulo de Vfuscapio: & longi tempo. prescripti.* So that *Briffonius*

in his *14. de verbo signif.* seemeth to say truly, that prescription is an exception founded vpon so long time runne and past, as the lawe limiteth for the pursuite of any action. An example may be taken from those statutes. *anno. 1. H. 8. ca. 4.* which inacteth, that in all actions populer, information shall be made within three yeares after the offence committed, or els be of no force. Of like nature is the *statute. anno. 7. H. 8. ca. 3.* which in some cases maketh one yeeres prescription sufficient against informations. Custom is also vsed for the tribute or tolle, that merchans pay to the king for carying in and out merchandise. *anno. 14. Ed. 3. stat. 1. ca. 21.* in which signification it is latined (*customa*) *Register. orig. fo. 138. a. 129. a.* and lastly for such seruices, as tenents of a maner owe vnto their lord. New booke of entries, *verbo Custome.*

*Customary tenents*, (*tenentes per consuetudinem*) are such tenents, as hold by the custome of the maner, as their especiall euidence. See *Copshoulds.*

*Custos breuium*, is the principall clerk belonging to the court of common pleas: whose office is to receiue and keepe all the writs, and put them vpon files, euery returne by it selfe, and at the end of euery terme to receiue

of the protonotaries all the records of (*Nisi prius*) called the (*possea*) For they are first brought in by the clerk of assise of euery circuit to the protonotarie that entred the issue in that mater, for the entring of the iudgement. And then doe the protonotaries get of the court peremptory day, for euery party to speake what he hath to allege in arrest of iudgement: which day being past, he entreth the verdict and iudgement thereupon into the rols of the court: and that done, he doth in the end of the tearme deliuer ouerto the *custos breuium*, all the records of (*Nisi prius*) which came to his hand that terme: which receiued he bindeth into a bundle and bestoweth them. The *custos breuium* also maketh entry of the writs of couenant, and the concord vpon euery fine: and maketh forth exemplifications and copies of all writs and records in his office, and of all fines leuiued. The fines after they be ingrossed, the parts therof are diuided between the *custos breuium* and the *chirographer*: whereof the *chirographer* keepeth alwaies with him the writ of couenant and the note, the *custos breuium* keepeth the concord, and the foote of the fine, vpon the which foote the *chirographer* doth cause the proclamations to be indorsed,

when they be all proclayned. This office is in the princes gift.

*Custos placitorum corone.* *Bracton. li. 2. ca. 5.* This seemeth to be all one with him, whome we nowe call (*custos rotularum*) of this officer I finde mention in the writ (*odio & atia*) Register. original. fo. 133. b.

*Custos rotularum*, is he, that hath the custodie of the rols or records of the sessions of peace: and (as some thinke) of the commission of the peace it selfe. *Lamb. Eirenarch. li. 4. ca. pa. 3. 373.* He is alway a Iustice of Peace and *Quorum*, in the countie where he hath his office. *Idem. eodem.* and by his office he is rather termed an officer or minister then a iudge: because the commission of the peace layethe, by expresse words this especiall charge vpon him: *quod ad dies & loca predicta, breuia, precepta, processus, & indictamenta predicta coram te & distis locus tuus venire facias. Idem. eodem.* where read a competent tract of other things belonging to this office.

*Custos of the spiritualities* (*custos spiritualitatis vel spiritualium*) is he that exerciseth the spirituall or ecclesiasticall iurisdiction of any dioces, during the vacancie of the See: the appointment of whome by the canon lawe ap-



perteineth to the deane and chapter.*ca ad abolendam, Extra. Ne sede vacante aliquid innovetur.* but with vs in England to the Archbishop of the province by prescription. How be it divers deanes and chapters (if *M. Gwin* say truly in the preface to his readings) doe challenge this by awncient charters from the kings of this land.

*Cutter of the talyes*, is an officer in the exchequer, that provideth wood for the talyes, and cutteth the summe paid vpon them, and then casteth the same into the Court to be written vpon.

## D A

**D***amage*, comineth of the french (*dam*) or (*domage*) signifying generally any hurt or hinderance, that a man taketh in his estate: But in the common lawe, it particularly signifieth a part of that the lūrours be to inquire of, passing for the plaintiffe or demandant in a ciuile action, be it personall or reall. For after verdict giuen of the principall cause, they are likewise asked their consciences touching costs (which be the charges of suite, called of the Civilians (*expensa litis*) and dammages, which containe the hindrance that the plaintiffe or

demandant hath suffered by meanes of the wrong done to him by the defendant or tēnent.

*Dane guilt, Danegold, or Danegelt* (*Danegeldum*) is compounded of (*Dane* and *gelt. i. pecunia*) and was a tribute laide vpon our ancessers of 12. pence for euerie hide of land through the realme by the Danes, that once got the masterie of vs, in regard (as they pretended) of clearing the sease of pyrates, which greatly annoyed our land in those daies. *Cambd. Brittan. 83.* with whome agree the lawes of *Edward* set out by *M. Lamberd. ca. 11. Stowe in his annals, pa. 118.* saith, that this tribute came to 40000. pownds by the yeare, and that it was released by *Edw.* the confessor. *The author of the newe Terms of law* saith, that this tribute began in the time of king *Etheldred*, who being sore distressed by the continuall inuasion of the *Dane*, to procure his peace, was compelled to charge his people with importable payments. For first he gaue them at five severall payments 113000. poundes, and afterward graunted them 48000. poundes yeerely. See *Roger Houeden parte poster. suorum annalium in Henrico secundo fo. 344. a.*

*Dareyn continuance*, See *Continuance*. *Darein* is a corrupt word of

of the French (*dernier. i. vltimus.*)

*Darreyn presentment* (*ultima presentatio.*) See *Assise* or *darreyn presentment.*

*Dates* (*dactyli*) is the plumme or fruite of the tree in latine called *palma*, in english the Date tree well knowne to most men by sight. And he that will farder vnderstand the nature or diuersities of this fruite, may repaire to *Gerards herball. li. 3. ca. 131.* They be numbred among spices and drugs to be garbled. 1. *Iaco. 19.*

*Day* (*dies*) is sometime vsed in the lawe, for the day of appearance in court, either originally, or vpon assignation; and sometime for the returnes of writs. For example, daies in bank, be daies set downe by statute or order of the court, when writs shall be returned, or when the partie shall appeare vpon the writ serued. And of this you may read the statutes, *anno 51. H. 3. ca. 1. & 2. Marl. ca. 12. anno. 52. H. 3.* and the statute *de anno bissextili. anno 21. H. 3.* and lastly *anno 32. H. 8. ca. 21.* To be dismissed with out day, is to be finally discharged the court. *Kitchin. fo. 193.* He had a day by the rolle. *Kitchin. fo. 197.* that is, he had a day of appearance assigned him. *Day, yeere, and waste. Sea Dies, and yeare.*

*Deadly feude* (*feuda*) is a profession of an vnquencheable hatred, vntill we be reuenged, euen by the death of our enemie. It is deduced from the German word (*Feed*) which, as *Hotoman* saith, *in verbis feudalibus, modo bellum, modo capitales inimicitias significat.* This word is vsed. *anno. 43. Eliz. cap. 13.*

*Deadpledge* (*mortuum vadium*) See *Mort gage.*

*Deane*, (*decanus*) is an ecclesiasticall magistrate, so called of the greeke (*deka*) because he hath power ouer ten *Canons* at the least. How be it in England we vse to call him a deane, that is next vnder the bishop, and cheife of the chapter ordinarily in a cathedrall church: and the rest of the societie or corporation we call *Capitulum*, the chapter. But this word how diuersly it is vsed, read *Lindwood. titulo de iudiciis ca. pri. verbo Decani rurales.* where deane rurals are saide to be certaine persons that haue certaine iurisdiction ecclesiasticall ouer other ministers and parishes neere adioyning, assigned vnto them by the Bishop and archdeacon, being placed & displaced by them. As there be two foundations of cathedrall churches in England, the old, & the new (the new bethose which *Henry the 8.* vpon suppression of abbeyes transformed from



abbot or prior & couët to deane and chapter) so be there two meanes of creating these deanes. For these of the old foundation, are brought to their dignitie much like Bishops: the king first sēding out his *congè d' eslire* to the chapter, the chapter then chusing, the king yeelding his royal assēt, and the Bishop confirming him, and giuing his mandate to installe him. Those of the newe foundation are by a shorter course installed by vertue of the kings letters patents, without either election or confirmation. This word is also applyed to diuers, that are the chiefe of certaine peculiar Churches, or chapels, as the deane of the kings chapell, the deane of the Arches, the deane of Saint George his chapell in *Windsour*, the deane of *Bockin in Essex*.

*Debet & solet*: These words are diuers times vsed in the writers of the common lawe, and may trouble the minde of a young student, except he haue some aduertisement of them. For example, it is saide in the *old. nat. br. fo. 98*. This writ (*de sexta molendini*) being in the (*debet*) and (*solet*) is a writ of right, &c. and againe, *fo. 69*. A writ of *Quod permittat* may be pleaded in the countie before the shyreue, and it may be in the (*debet*) and in the (*solet*) or the (*debet*) with out

the (*solet*) according as the Demandāt claymeth. wherfore note, that those writs that be in this sort brought, haue these words in them, as formall words not to be omitted. And according to the diuersity of the case, both (*debet*) and (*solet*) are vsed, or (*debet*) alone: that is, if a man siew to recouer any right by a writ, whereof his awncester was disseised by the tenent or his awncester, then he vseth onely the word (*debet*) in his writ: because (*solet*) is not fit by reason his awncester was disseised, and the custome discontinued: but if he siew for any thing, that is now first of all denied him, then he vseth both these words (*debet & solet*) because his awncesters before him, and he him selfe vsually inioyed the thing siewed for: as suite to a mille, or common of pasture vntill this present refusall of the tenent. The like may be saide of (*debet*) and (*detinet*) as appeareth by the *Register. orig.* in the writ *de debito. fo. 140. a.*

*Debito*, is a writ which lieth, where a man oweth to another a certaine summe of mony vpō an obligation or other bargain, for any thing sold vnto him. *Fitz. nat. br. fo. 119*. This writ is made sometime in the *Detinet*, & not in the *Debet*. which properly falleth out, where a man oweth an annuities: or a certaine quantity of wheat,

wheat, barley, or such like, which he refuseth to pay. *old.nat. br.fo. 75. See Debet & Solet.*

*Denelage* (*denelagia*) is the law that the Danes made heere in England, out of which and *Merchenlage*, and *West Saxonlage*, the Conquerour compounded certaine ordinances for his subiects. *Camdeni Britan.pa. 94. & pa. 183.*

*Decem tales.* See *Tales.*

*Decies tantum*, is a writ that lieth against a Iurour, which hath taken mony for the giuing of his verdict, called so of the effect, because it is to recouer ten times so much as he tooke. It lieth also against embracers that procure such an enquest. *anno 38.Ed. 2.ca. 13.Reg. orig.fo. 188. Fitzh.nat.br.fo. 171. New booke of Entrise.verbo Decies tantum.*

*Deceyte* (*deceptio, fraudus, dolus*) is a subtilie wylie shift or deuise, hauing noe other name. Hereunto may be drawen all maner of craft, subtiltie, guile, fraude, wilynes, slightnes, cunning, couin, collusion, practise, and offence, vsed to deceiue another man by any meanes, which hath none other proper or particular name, but offence. *West.parte. 2.symbol. tiu.10.Inditments.fect.68. See Consening.*

*Decenniers.* See *Decimers.*

*Deceptione*, is a writ that lieth properly against him, that de-

ceitfully doth any thing in the name of another, for one that receiueh harme or damage therby. *Fitzh.nat.br.fo. 95.* This writ is either originall or iudiciall, as appeareth by the *old.nat.br.fo. 50.* where you may reade the vse of both. For some satisfaction, take these words of that booke: This writ of deceit, when it is original, then it lieth in case, where deceit is made to a man by another, by which deceit he may be disherited, or otherwise euill intreated: as it appeareth by the *Register*, &c. And when it is iudiciall, then it lieth out of the rols of record: as in case where (*scire facias*) is sent to the Shyreue, that he warnes a man to be before the Iustices at a certaine day, and the Shyreue returne the writ serued; whereas the said man was not warned, by which the partie that fieweth the (*scire facias*) reconcreth, then the party which ought to haue beene warned, shall haue the saide writ against the Shyreue. *The author of the termes of lawe.verbo Deceite*, saith that the originall writ of deccite lieth, where any decent is done to a man by another, so that he hath not sufficiently performed his bargaine or promise, In the writ iudiciall he concurrerh with the former booke. See the *Reg.orig.fo. 112.* and the *Reg.iudiciall in the table.verbo Deceptione.*



*Decimis solvendis pro possessionibus alienigenarum*, is a writ or letters patents, yet extant in the Register, which laye against those, that had ferm'd the Priors aliens lands of the king, for the Rector of the Parish, to recouer his tythe of them. *Regi. orig. fol. 179.*

*Decimers, aliàs, desimers, aliàs, doziners, (decennarii)* commeth of the French, (*dizeine. i. decas*) tenne in number, or else of (*dise-nier. i. decearchus.*) It signifieth, in the auncient monuments of our lawe, such as were wont to haue the ouersight and checke of ten friburges, for the maintenance of the kings peace. And the limits or compasse of their iurisdiction was called (*decenna*) *Bracton lib. 3. tract. 2. cap. 15.* of whom you may also reade, *Fleta lib. 1. cap. 27* and a touch in the *Regist. orig. fol. 68.b.* These seemed to haue large authoritie in the Saxons time, taking knowledg of causes within their circuite, and redressing wrongs by way of iudgement, as you may reade in the lawes of king Edward, set out by *M. Lambard. num. 32.* In later times I find mention of these, as in *Britton cap. 12.* who saith in the kings person (as he writeth his whole booke) in this maner: We will, that all those which be 14. yeares old, shall make oath, that they shall be sufficient and loyall

vnto vs, and that they will be neither felons, nor assenting to felons: and we will, that all be (*en dozeine & p'levis per doziniers*) that is, professe themselves to be of this or that dozein, and make or offer suretie of their behaviour by these or those doziniers: except religious persons, clerks, knights, and their eldest sonnes, and women. Yet the same author in his 29. chapter, something toward the end, doth say, that all of 12. yeares old and vpward, are punishable for not comming to the Turne of the Shyreue, except Earles, Prelats, Barons, religious persons, and women. *Stawf. pl. cor. fol. 37.* out of *Fitzb.* hath these wordes: The like lawe is, where the dozeniers make presentment, that a felon is taken for felonie, and deliuered to the Shyreue, &c. And *Kitchin*, out of the Register, and *Britton*, saith thus. Religious persons, clerkes, knights, or women shall not be deceniers. *fol. 37.* So that hereby I gather, that of later times, this word signifieth nothing but such an one, as by his oath of loyaltie to his Prince, (for suretie none ordinarily findeth at these dayes) is settled in the combination or societie of a dozein. And a dozein seemeth now to extend so farre, as euery leete extendeth: because in leetes onely this oathe is ministred

ministred by the steward, and taken by such as are twe lue yeares old and vpwards, dwelling within the compasse of the leere where they are sworne. *Fitz. nat. br. fol. 161. A.* The particulars of this oath you may reade in *Bracton. lib. 3. tract. 2. cap. 1. num. 1.* in these words: *Quibus propositis* (that is, the commission of the Iustices being read, and the cause of their coming being shewed) *debent Iusticiarii se transferre in aliquem locum secretum, & vocatis ad se quatuor vel sex, vel pluribus de maioribus de comitatu, qui dicuntur Busones Comitatus, & ad quorum nutum dependent vota aliorum, et sic inter se tractatum habeant Iusticiarii ad muicem, & ostendant qualiter a Domino Rege & eius concilio prouisum sit, quod omnes tam milites, quam alii qui sunt quindecim annorum & amplius, iurare debent, quod uilagos, murtherores, robbatores, & burglatores non receptabunt, nec eis consentient, nec eorum receptatoribus, & si quos tales noverint, illos attachiari facient, & hos Vicecomiti & baliu suis monstrabunt: & si huiusmodi clamorem de talibus audierint, statim audito clamore, sequantur cum familia & hominibus de terra sua.* Here *Bracton* setteth downe 15. yeares, for the age of those that are sworne to the kings peace, but *lib. 3. tract. 2. cap. 11.*

*num. 5.* he nameth 12. yeares. See *Inlaughe.* A man may note out of the premisses, diuersities betweene the auncient and these our times, in this point of law and gouernement, as well for the age of those that are to be sworne, as also that *Decennier* is not now vsed for the chief man of a *Dozen*, but for him him that is sworne to the kings peace: and lastly, that now there are no other *Dozens* but leetes, and that no man ordinarily giueth other security for the keeping of the kings peace, but his owne oathe: and that therefore none answereth for anothers transgression, but euery man for himselfe. And for the general ground this may suffice. See *Frankepledge.*

*Declaration* (*declaratio*) is properly the shewing soorth, or laying out of an action personall in any suite, howbeit it is vsed sometime and indifferently for both personall and real actions. For example, anno 36. Ed. 3. c. 15. in these words: By the auncient termes and formes of declarations, no man shall be preiudiced: so that the mater of the action be fully shewed in the demonstration & in the writ: See the new *Termes of lawe.* See *Cownte.*

*Dedimus potestatem*, is a writ, whereby commission is giuen to



a priuate man for the speeding of some act appertaining to a Iudge. The Civilians call it (*Delegationem*) And it is graunted most commonly vpon suggestiō, that the partie, which is to doe something before a Iudge, or in court, is so feeble, that he cannot trauell. It is vsed in diuers cases: as to make a personall answer to a bill of complaint in the Chauncerie, to make an Atturney for the following of a suite in the Countie, Hundred, Wapentake, &c. *Old nat. br. fol. 20.* To levie a fine. *West. part. 2. symbol. titulo. Fines. sect. 112.* and diuers other effects, as you may see by *Fuzh. nat. br.* in diuers places noted in the *Index* of the booke: In what diuersitie of cases this writ or commission is vsed, see the table of the *Regist. orig. verbo Dedimus potestatem.*

*Deedes*, (*Facta*) signifie in our commō law writings, that containe the effect of a contract made betweene man and man, which the ciuilians call (*literarum obligationem*) And of deedes there be two sorts, deedes indented and deedis poll. Which distinction, as *M. West. saith parte. 1. Symbol. lib. 1. sect. 46.* groweth from the forme or fashion of them; the one being cut to the fashion of teeth in the toppe or side, the other being plaine. And the definition of a deede indented he

expresleth thus *Sect. 47.* A deed indented, is a deede consistiing of two partes or more, in which it is expressed, that the parties to the same deede, haue to euery parte thereof interchangably, or seuerally set there seuerall scales. See the rest, where at the last he sheweth the cause of the name: *viz.* for that consistiing of more partes, eche parte is indented or cut one of them into the other, that by the cut it may appeare, they belonge to one busines or contract. A deede poll or polled he describeth thus: *Sect. 46. 2.* A polled deede, is a deede testifying, that onely the one of the parties to the bargaine, hath put his scale, thereunto, after the maner there by him described: which reade for your beter vnderstanding. See the newe Termes of lawe, *verbo Fait*, where he sheweth, that each deed consisteth of 3. points: writing, sealing, and deliuerie.

*Deere Hayse. anno 19. H. 7. cap. 11.* seemeth to be an Engine of cords, to catch Deere.

*De essendo quietum de relonio*, is a writ that lyeth for them which are by priuiledge freed from the paynt of toll; which reade at large in *Fitzh. nat. br. fol. 226.*

*Default* (*defalta*) cometh from the French (*Defaut*) and is an offence in omitting that, which

which we ought to doe. *West. part. 2. symbol. titulo. Indictment. sect. 2.* Of this hath *Bracton* a whole tractats, *lib. 5. tractat. 3.* By whome it appeareth that a default is most notoriously taken for non appearance in court, at a day assigned. Of this you may reade also in *Fleta. lib. 6. cap. 14.*

*Defeifance* (*defeifantia*) cometh of the French (*Deffaire*) or *Deffaue*) i. *infestum reddere quod factum est*, and signifieth in our common lawe, nothing but a condition annexed to an act, as to an obligation, a recognizance or statute, which performed by the obligee or recognizee, the act is disabled and made voide, as if it neuer had bene done, whereof you may see *West* at large, *part. 1. symb. li. 2. sect. 156.*

*Defendant* (*defendens*) is he that is siewed in an action personall: as tenent, is he which is siewed in an action reall. Tearmes of the lawe.

*Defendimus*, is an ordinarie word in a feofment or donation, and hath this force, that it bindeth the donour and his heyres, to defend the Donor, if any man goe about to laye a nie seruitude vpon the thing giuen, other then is contained in the donation. *Bract. lib. 2. cap. 16. num. 10.* See also *Warrantizabimus & Acquietabimus.*

*Defender of the faith* (*defensor fidei*) is a peculiar title giuen to the King of England by the Pope, as (*Catholicus*) to the king of Spaine, and *Christianissimus* to the French king. It was first giuen by *Leo decimus* to king *Henry* the 8. for writing against *Martin Luther*, in the behalfe of the Church of Rome, then accounted *Domicilium fidei Catholicae*. *Stones annals. pag. 863.*

*Deforsour*, (*Deforcior*) cometh of the french (*Forceur* .i. *expugnator*). It is vsed, in our common law, for one that ouercommeth and casteth out by force, and differeth from disseisour first in this, because a man may disseise another without force, which act is called simple disseisin. *Britton. ca. 53.* next, because a man may deforce another, that neuer was in possession: as for example: if more haue right to lands, as commō heires and one entring keepeth out the rest, the law saith, that he deforceth them, though he doe not disseise them. *Old nat: br: fol: 118.* and *Littleton* in his chapter (*Discontinuance*) fol. 117. saith, that he which is infeoffed by the tenent in taile, and put in possession, by keeping out the heire of him in reuerfion being dead, doth deforce him, though he did not disseise him; because he entered, when the tenent in taile



was liuing, and the heire had noe present right. And a deforfour differreth from an Intrudour, because a man is made an Intrudour by a wrongfull entry only into land or tenement voide of a possessor. *Bracton li: 4: ca: pri.* and a deforfour is also by houlding out the right heire, as is abouesaide.

*Deliueraunce, See Repligiare.*

*Demaund, (Demanda vel Demandum)* commeth of the french (*Demande. i. postulatio, postulatus*) and signifieth a calling vpon a man for any thing due. It hath likewise a proper signification with the common lawyers opposite to plaint. For the pursuite of all ciuill actions are either demaunds or plaints: and the persyewer is called demaundant or plaintife: *Viz: Demandaundant* in actions reall, and plaintife in personall. And where the party persiewing is called demaundāt, there the party persiewed is called tenent: where plaintife, there defendant. See terms of law, *verbo Demaundant.*

*Demy haque, See Haque, and Haquebut.*

*Demaine, (Dominicum)* is a french word, otherwise written (*Domaine*) and signifieth (*Patrimonium domini*) as *Horoman* saith in *verbis feudalibus. verbo Dominicum.* where by diuers authorities he proueth those lands to be

*dominicum*, which a man holdeth originally of himselfe, and those to be *feodum*, which he holdeth by the benefite of a superiour Lord. And I find in the ciuill law (*Rem dominicam*) for that which is proper to the Emperour. *Cod. Ne res dominica vel templorum vindicatio temporis prescriptione submoneatur*, being the 38. title of the 7. booke. And (*res dominici iuris. i. reipub.* in the same place. And by the word (*Domanium*) or (*Demanium*) are properly signified the kings lands in *Fraunce*, appertaining to him in propertie, *Quia Domanium definitur illud, quod nominatim consecratum est, unitum, & incorporatum Regia corona, ut scripsit Chopinus de dominio Francie tit. 2. per legem. Si quando 3. Cod. de bon. vacan. lib. 10. & Mathaus de Afflictis in constit. Sicilia li. 1. tit. De locatione Demanii. 82.* which may be called *Bona incorporata & in corpus fisci redacta.* *Skene de verborum signif. verb. Terra Dominicales.* In like maner doe we vse it in *England*: howbeit, we here haue no land (the Crowne land onely excepted) which holdeth not of a superior. For all dependeth either mediately or immediately of the Crowne, that is, of some honour or other belonging to the Crowne, and not graunted in fee to any inferior person. Wherefore no common person

hath any demaynes, simply vnderstood. For when a man in pleading would signifie his land to be his owne, he saith, that he is or was seised thereof in his demaine as of fee. *Luleton li. 1. cap. 1.* Whereby he signifieth, that though his land be to him and his heyres for euer, yet it is not true demaine, but depending vpon a superior Lord, and holding by seruice, or rent in lieu of seruice, or by both seruice and rent: Yet I find these words vsed in the kings right, *anno 37. H. 8. cap. 16.* and *39. Eliz. cap. 22.* But the application of this speech to the king and crowne land, is crept in by error and ignorance of the word (*Fee*), or at least by vnderstanding it otherwise then of the Feudists it is taken. But *Britton. cap. 78.* sheweth, that this word (*Demeyne*) is diuersly taken: sometime more largely, as of lands or teneiments held for life, &c. and sometime more strictly as for such onely as are generally held in fee. This word sometime is vsed for a distinction between those lands, that the Lord of a maner hath in his owne hands, or in the hands of his leasee, dimised vpon a rent for tearme of yeares or life, and such other lād appertaining to the said maner, which belongeth to free or copy-houlders. Howbeit, the copyhold belonging to any ma-

ner, is also in the opiniō of many good lawyers accounted *Demaines*. *Bracton* in his fourth booke tract. 3. ca. 9. nu. 5. hath these words: *Item dominicum accipitur multipliciter. Est autē dominicum quod quis habet ad mensam suam & propriē, sicut sunt Bordlands anglie. Item dicitur dominicum villenagium, quod traditur villanis, quod quis tempestiue & in tempestiue resumere possit pro voluntate sua, & reuocare.* Of this *Fleta* likewise thus writeth: *Dominicum est multiplex. Est autem Dominicum propriē terra ad mensam assignata, & villenagium quod traditur villanis ad excolendum, & terra precario dimissa, quae tempestiue & pro voluntate domini poterit reuocari: & sicut est de terra commissa, tenenda quam diu commissori placuerit. poterit & dici Dominicum. de quo quis habet liberum tenementum, & alius vsufructum: & etiam ubi quis habet liberum tenementum, & alius curam, sicut de custode dici poterit & curatore; & unde vnus dicitur a iure, alius quoque ab homine. Dominicum etiam dicitur ad differentiam eius quod tenetur in seruitio. Dominicum est omne illud tenementum, de quo antecessor obijt seiscitus vt de feudo, nec refert cum vsufructu vel sine, & de quo si eiectus esset, si videret, recuperare posset per assisam nomine disseisinae, licet alius haberet vsu-*



*fructum: sicut dici poterit de illis qui tenent in villenagio, qui utuntur, fruuntur non nomine proprio sed nomine Domini sui. Fleta: l. 5. c. 5. 8. Dominicū autē.* And the reason why copyhold is accounted Demeanes, is because they that be tenants vnto it, are iudged, in law, to haue nor other right, but at the will of the lord. Soe that it is reputed still after a sort to be in the Lords hands. And yet in common speech, that is called ordinarily Demeanes, which is neither free nor copy. It is farther to be noted, that Demaine is sometime vsed in a more speciall signification, and is opposite to Franck fee. For example, those lands, which were in the possession of King *Edward* the confessor, are called auncient Demaine, & all others be called Franck fee. *Kitchin. fol. 98.* and the tenants which hold any of those lands, be called tenants in auncient demaine, the others tenants in franck fee. *Kitchin ubi supra.* And also tenants at the common lawe. *West. parte 2. Simbol: titulo Fines. Sect 25.* The reason is, because tenants in auncient Demaine, cannot be syewed out of the Lords court: Termes of the Lawe. *verbo Auncient Demaine.* And the tenants in auncient demaine, though they hold all by the verge, and haue none other euidence but co-

py of court rolle, yet they are saide to haue free hold. *Kitchin. fol. 81. See Auncient demaine.*

*Demayne cart of an Abbot,* seemeth to bee that cart, which the Abbot vseth vpon his owe *Demaine: Anno. 6. H. 3. cap. 21.*

*Demurrer (Demorare)* cometh of the French (*Demeurer. i. manere in aliquo loco vel morari*) It signifieth in our common lawe, a kinde of pause vpon a pointe of difficultie in any action, and is vsed substantiuely. For in euery action, the controversie consisteth either in the fact, or in the lawe, if in the fact, that is tried by the Iurie, if in lawe, then is the case plaine to the Iudge, or so hard and rare, as it breedeth iust doubt. I call that plaine to the Iudge, wherein hee is assured of the lawe, though perhaps the partie and his counsell yeeld not vnto it. And in such, the Iudge with his Assessors proceedeth to Iudgement without farther worke: but when it is doubtfull to him and his Associates, then is there stay made, and a time taken, either for the court to thinke farther vpon it, and to agree if they can: or els for all the Iustices to meete together in the Chequer chamber, and vpon hearing of that which the sergeants shall say of both partes, to advise and set downe what is lawe. And whatsoeuer they conclude,

clude, standeth firme without farther remedie. *Smith. de Repub. Anglo. lib. 2. cap. 13. West.* calleth it a *Demurrer* in chauncery like-wise, when there is question made whether a parties answer to a bille of complaint, &c. be defectiue or not: and thereof reference made to any of the bench for the examination thereof, & report to bee made to the court. *parte. 2. symb. tit. Chauncery. sect. 29.*

*Denariata terra.* See *Farding deale of land.*

*Denizen*, commeth of the French (*Donaison. i. Donatio*) and signifieth in our common lawe, an Aleia that is infranchised here in England by the Princes charter, and inabled, almost in all respects, to doe as the kings natieue subiects doe: namely to purchas, and to possesse lands, to be capable of any office or dignitie. Yet it is saide to be short of naturalisation, because a straunger naturalised, may inherit lands by descent, which a man made onely a denizen cannot. And againe, in the charter whereby a man is made denizen, there is commonly contained some one clause or other, that abridgeth him of that full benefite, which naturall subiects doe inioy. And when a man is thus infranchised, he is saide to bee vnder the kings protection, or,

*esse ad fidem Regis Anglie*, before which time he can inioy nothing in England. *Bracton. lib. 5. tractat. 5. cap. 25. nu. 3.* Nay, hee and his goods might bee seised to the kings vse. *Horn in his mirror of Iustices. li. 1. ca. de la Venue de franc plege.*

*Deodand* (*Deodandum*) is a thing giuen or forfeited (as it were) to God for the pacification of his wrath in a case of misadventure, whereby any Christian soule commeth to a violent ende, without the fault of any reasonable creature. For example, if a horse should strike his keeper and so kille him; if a man in dryuing a cart, and seeking to redresse any thing about it, should so fall, as the cart wheele running ouer him, should presse him to death: if one should be felling of a tree, and giuing warning to one coming by, whē the tree were neere falling, to looke to themselves, and any of them should bee slaine neuertheless by the fall of the tree. In the first of these cases the horse, in the second the cart wheele, carte and horses, and in the third the tree is to be giuen to God: that is, to be sold and distributed to the poore, for an expiation of this dreadfull euent, though effected by vnreasonable, yea sensles & dead creatures. *Stanfpl. car. lib. 1. ca. 2.* whereof



also read *Bracton lib. 3. tractat. 2. cap. 5. and Britton. cap. 7. and West. parte. 2. symbol. eog. titulo Indisements. sect. 49.* And though this be giuen to God: yet is it forfeited to the king by lawe, as susteining Gods person, and an executioner in this case, to see the price of these distributed to the poore, for the appeasing of God stirred vp euen against the earth and place, by the shedding of innocent blood thereupon. *Flota*, saith that this is fould, and the price distributed to the poore for the soule of the king, his auncesters, and of all faithfull people departed this life. *lib. 1. cap. 25. verbo. De submersis.* And it seemeth that this law hath an imitation of that in *Exodus. cap. 21. Si cornu petierit bos virum vel mulierem, ita vt moriatur, lapidabitur bos, neq; comedatur caro eius, as Dominus eiuserit innocens.*

*De Deonerando prorata portio- nis*, is a writ that lieth where one is distrained for a rent, that ought to be paid by others proportionally with him. For exāple, a man holdeth ten Oxegangs of land by fealty, and ten shillings rent of the king, and alienateth one Oxegang thereof to one, another to another in fee. Afterward the Shyreue or other Officer cometh and distraineth onely one of them for the Rent:

he that is distrained may haue this writ for his helpe. *Fitzh. nat. br. fo. 224.*

*Departer*, is a word properly vsed of him, that first pleadin one thing in barre of an action, and being replied thereunto doth in his reioynder shew another mater contrary to his first plea. *Plowden in Reniger and Fogassa. fo. 7. & 8.* And of this see diuers examples in *Brooke. titulus. Departere de son plee &c.*

*Departers of gold and silver. See Fours.*

*De quibus sur disseisin*, is a writ of entry. See *Fitzh. nat. br. fo. 191. C.*

*Dereyne* (*Disfrationare, vel Disrationare*) may seeme to come from the French (*Disarroyer. i. confunderere, turbare*) to confound or turne out of order, or (*desfranger*) to set out of order, or lastly of the Norman word (*desfrere*) for withe the Normans (*desfrere*) is nothing else but a prooofe of the denial of a mans owne fact. For *Rubricus* in his *grand custumarie cap. 122. & 123.* maketh mention of (*lex probabilis*) and (*lex derationia legem probabilem* or (*probationem*) he defineth to be a prooofe of a mans owne fact, which he saith he hath done, to his aduersarie denieth. His example is this: *A. sheweth R. for a hogge: saying, thou shouldest denie me a hogge for 2. shilling*

fixe pence: which mony *F.* paid thee: wherefore I demaunde my hogge. *R.* answereth. It is true that thou saiest, and I deliuered thee thy hog, which I am ready to prooue. *Deraignū* he defineth, to be a prooue of a thing that one denieth to be done by himselfe, which his aduersarie saith was done, defeating or confounding his aduersaries assertion (as you would say) and shewing it to be without and against reason or likelihood, which is avouched. In our commō lawe it is vsed diuersly, first generally, for to prooue as *Dirationabit ius suum heres propinquior.* Glanville li. 2. cap. 6. and *Habeo probos homines, qui hoc viderunt & audierunt, & parati sunt hoc dirationare.* Idem lib. 4. cap. 6. and (*Dirationavit terram illam in curia mea*) Idem lib. 2. cap. 20. i. hee prooued that land to bee his owne, &c. and (*pertinentiam eam dirationavit in vita sua, vel alio modo iuste perquisiuit*) Idem, lib. 6. cap. 12. and Bracton vseth it after the same sort, in these words: *Habeo sufficientem dirationem & probationem.* lib. 4. tracta: 6 cap. 16. and so he vseth (*dirationare*) lib. 4. cap. 22. and so in *Westm.* 2. anno. 13. Ed. pri: ca. 32. an to dereine the warrantie old. nat. br. f. 146. & to dereine the warraty paramour. an. 31. H. 8. c. primo. And dereigner le Warranty

in *Plowd. casu Bassett in fine. 2. partis fo. 6. 7. & 8. a.* hath the same signification. So it is vsed, *Westm.* 2. cap. 5. anno. 13. Ed. 1. in these words: And when the person of any Church is disturbed to demaund tithes in the next parish, by a writ of (*Indicavit*) the patron of the Parson so disturbed to demaund tithes, shall haue a writ, to demaund the Advowson of the tithes being in Demaund: and when it is deraigned, then shall the plee passe in the court christian, as farre forth as it is deraigned in the kings court. Bracton also, li. 3. tracta. 2. cap. 3. nu. 1. speaking of him that appealeth another for any treason or felonie, hath these words. *Proponat accusans appellum suum in hunc modum, sc: debet dicere se interfuisse, & vidisse certo loco, certo die, certa hora, & scriuisse ipsum accusatum prelocutum fuisse mortem regis, vel seditionem suam, vel exercitum sui, vel consensisse, vel auxilium & consilium impendisse, vel ad hoc auctoritatem prestitisse: & hoc ego iuxta considerationem curie dirationare paratus sum.* He vseth it likewise as the Normans vsed (*Deraigniam*) for him, that offereth to iustifie his deniall: as lib. 3. tracta. 2. cap. 28. nu. 1. in these words. *Rex consilio episcoporum & bonorum missis propter comitem, ut statuo die veniret ad curiam, ad dirationandum vel defendendum se,*



*se, sposer.* Lastly, in some places I find the substantiue (*dereinement*) vsed in the very literall signification of the french (*Disfrayer*) or (*desfranger*) that is, as a man wold say, turning out of course, displacing or setting out of order: as *dereinement* or departure out of religion. *anno 31. H. 8. cap. 6.* and *dereinment* or discharge of their profession. *anno 33. H. 8. cap. 29.* which is spoken of those religious men, that forsooke their orders and professions: as also *anno 7. & 6. Ed. 6. cap. 12.* See doth *Kitchin* vsē the verb *fo. 152.* in these words: the lessee entreteth into religion, and afterward is *dereigned*. And *Britton* vsēth these words (*Semounse desrenable*) for a summons that may be chalenged as defectiue or not lawfully made, *cap. 21.* Of this you may reade something more in *Skene de verb. signif. verbo Disrationare*, where in one signification he confoundeth it with our waging and making of lawe.

*De son tort demesne*, seeme to be certaine words of forme in an action of trespassse, vsed by way of reply to the plee of the *Defendant*. For example: *A.* sheweth *B.* in action of trespassse. *B.* answereth for himselfe, that he did that which *A.* calleth a trespassse, by the commaundement of *C.* his maister. *A.* saith againe, that *B.*

did it *de son tort demesne, sans ceoque. C. luy commaunda modo & forma*, that is: *B.* did it of his owne wrong, without that that *C.* commaunded him in such forme &c.

*Detinere.* See *Debito* and *Debet.*

*Detynew (detinendo)* is a writ that lyeth against him, who hauing goods or chateis deliuered him to keepe, refuseth to deliuer them againe. See of this *Finzb. nat. br. fol. 138.* To this is answerable in some sort (*actio depositi*) in the ciuile lawe. And hee taketh his action of *detynew*, that intendeth to recouer the thing deliuered, and not the damages sustained by the *detynew*. *Kitchin fol. 176.* See the new booke of Entries. *verbo, Detynew.*

*Devastaverunt bona testatoris*, is a writ lying against executors, for paying Legacies and debits without specialties, to the preiudice of the creditours that haue specialties, before the debt vpon the said specialties be due. For in this case, the executors are as lyable to action, as if they had wasted the goods of the testatour riotously or without cause. New termes of lawe.

*Devest (devestire)* is contrarie to Invest. For as *Investire* signifieth *possessionem tradere*. So (*devestire*) is (*possessionem auferre*) *send. lib.*

libro primo cap. 7.

*Deuise*, aliàs, *diuise* commeth of the French (*diuiser*, i. *dispartiri*, *discernere*, *separare*, *distinguere*) as (*diuiser par ci & par là*, *distribuer*.) This word is properly attributed in our common lawe to him, that bequeathes his goods by his last will or testament in writing: and the reason is, because those that now appertain onely to the *Devour*, by this act are distributed into many parts. Wherefore I thinke it better written *diuise* thē *deuise*, howbeit, it were not absurd, to deriue this word from the French (*deuiser*) i. *sermocinari*, *fabulari*, *consilium conferre*. For in this sence it agreeth in some sort with the nature of the act of the testator, and with the Etymologie of a testament set downe by *Iustinian*, who saith, that *testamentum* is (*quasi mentis testatio. titulo. de Testa. ordinan. in Instiut.* and *testatio mentis* cannot be so well, as by talke and conference with our wise and skilfull friends.

*Devoires of Cales*, anno 2. R. 2. Stat. 1. cap. 3. & anno 5. eiusdem, fut. 2. cap. 2. were the customes due to the king for merchandize brought to or caried out from *Cales*, when our Staple was there. The word is French, signifying as much as (*officium*) dutie.

*Devorce*, aliàs, *dsorce* (*divortium*) is with our common Lawyers, accompted that separation betweene two *de facto* married together, which is *a vinculo matrimonii*, non solum *a mensa & thoro*. And therefore the woman so divorced, receiueth al againe that shee brought with her. This is not, but onely vpon a nullitie of the mariage through some essentiall impediment, as consanguinitie or affinity within the degrees forbidden, precontract, imporencie, or such like. See the new Tearmes of lawe.

*Diem clausit extremum*, is a writ that lyeth for the heyre of him that holdeth land of the Crowne, either by knights seruice or in soccage, and dyeth, be he vnder or at full age, directed to the escheatour of the county for inquirie to bee made by him, of what estate the partie deceased was seised, and who is next heyre vnto him, and of what valew the land is. The forme thereof and other circumstances, you may learne in *Fitzh. nat. br. fol. 251.*

*Dyer*, was a learned Lawyer, and Lord chiefe Iustice of the Common plects, in the dayes of Queene *Elizabeth*: who writ a booke of great accompt, called his Commentaries or Reports.

*Dies datus*, is a respight giuen to the tenent or defendant be-



fore the court. *Brooke titulo. Continuance.*

*Dicker of lether*, is a quantitie consisting of tenne hides. The name may seeme to come from the Greeke (*decas*) which is also a Latine word signifying tenne in number.

*Dignitie ecclesiasticall* (*dignitas ecclesiastica*) is mentioned in the statute anno 26. H. 8. cap. 3. and is by the Canonists defined to be (*administratio cum iurisdictione & potestate aliqua coniuncta. Glos. in cap. 1. de consuet. in sexto.*) whereof you may reade diuers examples in *Duarenius de sacris ecclesi. minist. & benefic. lib. 2. cap. 6.*

*Dioces* (*diocesis*) is a Greeke word compounded of (*dia*) and (*viknos*;) and signifieth with vs, the circuit of euery Bishops iurisdiction. For this realme hath two sorts of diuisions, one into Shyres or Counties, in respect of temporall policie, another into Diocesses in respect of iurisdiction ecclesiasticall.

*Dieta rationabilis*, is in *Bracton* vsed for a reasonable daies iourney. *lib. 3. parte. 2. chap. 16.* It hath in the ciuile law diuers other significations, not needfull heere to be set downe. *v. vocab. viriisque iuris.*

*Dumy haque.* See *Haque.*

*Disalt*, signifieth as much as to disable. *Littleton* in his chapter of *Discontinuance.*

*Disceite*, See *deceite* and *deceptione.* See the new booke of *Entry, verbo Disceit.*

*Discent*, (*Disensus*) in the french (*Descente*) signifieth in the common law, an order or means whereby lands or tenements are deriued vnto any man from his auncestours: as to make his discent from his Auncestours. *Old nat. br. fol. 101.* isto shew how, and by what degrees, the land in question cam to him from his auncestours: as first from his great grandfather to his grandfather, from his grandfather to his father, and so to him. Or in such other like sort: This discent is either lineall or collaterall. Lineall discent is conueied downward in a right line from the Grandfather, to the father, and from the father to the sonne, and from the sonne to the Nephew, &c. Collaterall discent is springing out of the side of the whole blood: as Grandfathers brother, fathers brother, &c. See the new Tearmes of law.

*Disclamer*, (*Disclamium*) is a plee containing an expresse deniall or refusall: as if the tenant siew a replevin vpon a distresse taken by the lord, and the lord avow the taking of the distresse, saying that he houldeth of him as of his Lord, and that he distrained for rent not paid, or seruice not perfourmed: then the

tenant

tenent denying himselfe to hould of such Lord, is said to disclaime: and the Lord prouing the tenent to hould of him, the tenant leeseeth his land. Tearmes of law. Of this see *Skene de verb. signifi. verbo Disclamation*. Also if a man deny himselfe to be of the blood or kindred of another in his plee, he is said to disclaime his blood: *Entz: nat: br: fol. 197. G.* See *Brooke, titulo Disclai mer* If a man arraigned of felonie do disclaime goods, being cleared he leeseeth them. *Starnf. pl. cor. fol. 186.* See the new booke of Entries. *verbo, Disclamer.*

*Discontinuance*, (*Discontinuation*) commeth of the french (*Discontinuer*).i. *cessare, intermittere*) and signifieth in the common law, nothing els but an interruption or breaking of: as discontinuance of possession, or discontinuance of proces. And the large discourse that *Littleton* hath about this (*Discontinuance*) is rather to shew cases wherein it is, or wherein it is not, then to define the thing. The effect of discontinuance of possession is this, that a man may not enter vpon his owne land or tenement alienated, whatsoeuer his right be vnto it, of his owne selfe, or by his owne authority, but must bring his writ, and seeke to recouer possession by law. Examples you may haue store in his Terms

of law, *verbo Discontinuance*. And in *Littleton eodem capite*, with whom agreeth another in these words: But discontinuance of possession is indeed an impediment to a man for entring into his owne land or tenements, caused by the fact of one, that alienated them contrary to right, and gaue Liucry and seisin of them, whereby the true owner is left only to his action. See the new tearmes of law, and the Institutes of the Common Law. *ca: 43. & see S. Ed. Cokes reportes. l. 3. the case of Fines. fo. 85. b.* The effect of discontinuance of plee is, that the instance is fallen, and may not be taken vp again, but by a new writ to begin the suite afresh. For to be discontinued, and to be put without day, is all one; and nothing els, but finally to be dismissed the court of that instance. *West. parte 2. Simbol: titulo. Fines. sect. 115.* So *Crompton* in his diuers Iurisdiccions, *fol: 131.* vseth it in these words: If a Iustice seate be discontinued by the not comming of the Iustices, the king may renew the same by his writ, &c. In this signification *Fitzh: in his nat. br.* vseth the word diuers times: as discontinuance of a corody, *f. 193. A.* To discontinue the right of his wife. *fol. 191. L. & 193. L.* *Discontinuance* of an assise, *fol. 182. D. 187. B.*



*Disgrading*, (*Degradatio*) is the punishment of a Clerk, that being deliuered to his Ordinary, cannot purge himselfe of the offence, whereof he was convicted by the Iury: and is nothing but the deprivation of him from those orders of Clerkship that he had, as Priesthood, Deaconship. &c. *Stawf. pl. cor. fol. 130. & 138.* There is likewise disgrading of a knight. *Stowes Annals. pag. 865.* And it is not to be omitted, that by the Canon law, there be two sorts of disgrading: one summary by word onely, and another solemne by deucing the party degraded of those ornaments and rites, which be the ensignes of his order or degree.

*Dismes* (*Decima*) is made of the french (*Decimes*) and signifieth tithes or the tenth part of all the fruites, either of the earth, or beastes, or our labour, dew vnto God, and so consequently to him that is of the Lords lot, and hath his share: *viz.* our pastour. It signifieth also the tenthes of all spirituall liuings, yearly given to the Prince (called a perpetuall *Disme. anno. 2. & 3. Ed. 6. ca. 35*) which in auncient times, were paid to the Pope, vntill Pope *Vrbane* gaue them to *Richard* the second, to aide him against *Charls* the french king, and those other that upheld *Clement*

the seventh against him. *Polider Virgil. Angl. hist. lib. 20.* Lastly it signifieth a tribute leuied of the Temporality. *Holmesbed. in Henry. 2. fol. 111.*

*Disparagement*, *Disparagatio*, is by our common lawyers, vled especially for matching an heire in marriage vnder his or her degree, or against decencie. See my *Institutes. titulo de nuptiis. §. 6.*

*Disseisin* (*Disseisina*) cometh of the french (*Disseisir*) and signifieth in the common lawe, an vnlawfull disposseising of a man of his land, tenement or other immoueable or incorporeall right, *Institut. of the the com. lawe. ca. 15.* And how farre this extendeth, See *Bracton, libro quarto, cap. tertio.* And therefore the Assises be called writs of disseisin, that lie against disseitours in any case, whereof some be termed little writs of disseisin, being *vicontiel*, that is, shewable before the Shyreue in the countie court, *old. nat. br. fol. 109.* because they are determined by the Shyreue without assise. *Register Original. fo. 198. b.* as for Nuissances of no great preiudice. *Disseisin* is of two sorts; either simple disseisin, committed by day without force and armes. *Bracton. li. 4. ca. 4. Britton. ca. 42. & 43. & 44.* where you shall finde in what especially it is lawfull, in what not *Britton. ca. 53.* And *Disseisin* by force

force, for the which see *Deforsfour*. See fresh *Disseisin*. See *Redisseisin*, and *Postdisseisin*. See *Skene de verbo. significat. verbo Disseisina*. *Disseisin* how many waies it is committed. See *Fleta. li. 4. ca. 1. §. Fit autem, &c.* & when it is lawfull. *ca. 2.*

*Distresse* (*Districcio*, *Districus*) cometh of the French (*Distresse, angustia*) — It signifieth most commonly in the common law, a compulsion in certaine reall actions, whereby to bring a man to appearance in courte, or to pay debt or dutie denied. The effect whereof most commonly is, to driue the party distreined to replevie the distresse, and so to take his action of trespassse against the distreiner, or els to compound neighbourly with him for the debt or dutie, for the which he distreineth. In what cases a distresse is lawfull, see *the newe termes of lawe*. The Civilians call it (*pignorum captionem*) *Brissonijs de verbo. significat. lib. 14.* This compulsion is by *Britton. ca. 71.* diuided into a distresse personall and distresse reall: distresse personall, is made by surprising a mans moueable goods, and detaining them for the securitie of his appearance to the suite, and to make him plantiffe. A distresse reall, is made vpon immoveable goods, as the *Grand Cape & Petit Cape*. And thus it is interpreted

by *Horoman de verb. feudal. verbo Districus*. This differeth from an attachement in this point (among others) that a distresse cannot bee taken by any common person, without the compasse of his owne fee. *Fenzb. nat. br. fol. 904.* except it bee presently after the catell or other thing is driuen or borne out of the ground by him that perceiueth it to bee in danger to be distreined. *New termes of the lawe. verbo distresse.*

*Districus*, is sometime vsed for the circuit or territorie within the which a man may be thus compelled to apperance. *Ca. ne Romani. de electione in Clem. and Cassan. de consuetud. Eurgand. pa. 90. Britton. ca. 120.* and so likewise is *Districcio* in the Register originall. *fol. 6. b.* And so it seemeth to bee vsed in *pupilla oculi. parte. 5. c. 22. Charta de foresta*. See also *Mynsing.* in the chapter. *licet causam. 9. extra de probationibus. nu. 5. & Zasius in his 16. counsell. nu. 47.* Distresse, in the former signification, is diuided first into finite and infinite. Finite is that which is limited by lawe, how often it shall be made to bring the partie to triall of the action, as once, twice. *Old nat. br. fo. 43.* Distresse infinite is without limitation vntill the partie come: as against a Iurie that refuseth to appeare *super certificatione Assise,*



the proceſſe is a (*venire facias*) (*habeas corpora*) and diſtreſſe infinite. *Old. nat. br. fol. 113.* Then it is diuided into a ground diſtreſſe. *anno. 52. H. 3. ca. 7.* which *Fitzherbert* calleth in latine *magnam diſtinctionem. nat. br. fol. 126.* A. and an ordinarie diſtreſſe. A ground diſtreſſe is that, which is made of all the goods and catels, that the partie hath within the Countie. *Britton. ca. 26. fol. 52.* but ſee whether it be ſometime not all one with a diſtreſſe infinite. *Idem. fol. 80.* with whom alſo the Statute of *Marlbridge* ſeemeth to agree. *anno 52. H. 3. ca. 7. & ca. 9. & ca. 12.* See *old. nat. breu. fol. 71. b.* See grand diſtreſſe, what things bee diſtreinable, and for what cauſes. See the newe *Termes of lawe. verbo Diſtreſſe.* Of this alſo ſee more in *Attachment.*

*Diſtringas*, is a writ directed to the Shyreue, or any other officer, commanding him to diſtreine one for a debt to the king, &c. or for his appearance at a day. See great diuerſitie of this writ in the table of the Register iudicial, *verbo Diſtringas.*

*Diuiſe.* See *Deuiſe.*

*Dividends in the Exchequer*, ſeemeth to be one part of an Indenture. *anno 10. Ed. 1. ca. 11. & anno 28. eiusdem. Stat. 3. ca. 2.*

*Dyvorce.* See *Devorice.*

*Docket*, is a briſe in writing.

*anno. 2. & 3. Ph. & Mar. ca. 6.* *Weſt* writeth it (*Dogget*) by whom it ſeemeth to be ſome ſmall peece of paper or parchment, containing the effect of a larger writing. *Symbol. parte. 2. titulo Fires. ſect. 106.*

*Doitor and Student*, is a booke containing certaine dialogues, betweene a *D.* of Diuinitie, and a Student at the common Law, wherein are contained queſtions and caſes, as well of the equitie and conſcience uſed in the common Lawe, as alſo a compariſon of the Civile, Canon, and common lawe together, very worthy the reading. The author is ſaid by *D. Coſin* in his Apologie, to bee a gentleman, called *Saint German*, The booke was written in the daies of *H. 8.*

*To do lawe* (*facere legem*) is as much as to make lawe. *23. H. 6. ca. 14.* See *Make.*

*Dogge drawe*, is a manifeſt apprehenſion of an offender againſt veniſon in the foreſt. There bee foure of theſe noted by *M. Manhood. parte. 2.* of his foreſt lawes. *ca. 18. nu. 9. viz. Stableſtand Dogge drawe, Back beare, and Bloodie hand.* *Dogge drawe*, is when one is found drawing after a decre, by the ſent of a hound, that he leadeth in his hand.

*Dogger*, a kinde of ſhippe. *anno 31. Ed. 3. Stat. 3. ca. pri.*

*Doggerſiſh*, *ibid. c. 2.* ſeemeth to bee

bee fish brought in those ships  
to *Blackeney haven, &c.* Dogger  
men. anno 2. H. 8. ca. 4.

*Dogget, See Docker.*

*Danno reparanda*, is a writ that  
lyeth for one against his neigh-  
bour, by the fall of whose house  
he feareth hurt toward his owne  
house. *Register originall. fol. 153.*  
for this point. The ciuilians haue  
the action *de damno infecto*.

*Dole fishe*, seemeth to be that  
fish, which the fisher men, yere-  
ly employed in the north sease,  
doe of custome receiue for their  
allowance, See the statute. a. 35.  
H. 8. ca. 7.

*Donaryue*, is a benefice meere-  
ly giuen and collated by the Pa-  
tron to a man, without either  
presentation to the Ordinary, or  
Institution by the Ordinarie, or  
Induction by his commande-  
ment. *Fitzh. nat. br. fol. 35. E.* See  
the statute, anno 8. R. 2. cap. 4. Of  
this *Petr. Gregor. de beneficiis cap.*

11. nu. 10. hath these words: *Si  
tamen Capellanie fundata per Lai-  
cos non fuerint à Diocesano approba-  
ta, & ut loquuntur spiritualizata,  
non censentur beneficia, nec ab Episcopo  
conferri possunt, sed sunt sub pia  
dispositione funditoris. Joh. Faber ad  
§. Nullius. De rerum diuis: Ideo fun-  
datores & heredes eorum, possunt  
tales Capellanus donare sine Episcopo,  
cui voluerint, tanquam profora  
beneficia. Guido Papaus de scis. 187.*  
See also *Gregorius. lib. 15. ca. 29.*

*sui syntagmatis. nu. 11.* I finde in  
the preface of *M. Gwins* readings,  
that as the king might of auncient  
times found a free Chapell,  
and exempt it from the iurisdic-  
tion of the Diocesane: so hee  
might also by his letters patents  
licence a common person, to  
found such a chapell, and to or-  
deine, that it shalbe donatiue &  
not presentable, and that the  
Chaplain shall be depriueable  
by the founder and his heires,  
and not by the Bishop. And this  
is likeliest to be the originall of  
these *Donatiues in England.* *Fitzh.*  
saith, that there be certaine  
Chauntries, which a man may  
giue by his letters patents. *nat. br.*  
*fol. 33. C.* See him also, *fol. 42. B.*  
All Bishopricks were donatiue  
by the king, *Coke. li. 3. fo. 75. b.*

*Doomes day, (Rotulus Wintonie)*  
(*domus Dei: Coke in Prefatione ad  
librum suum*) is a booke that was  
made in king *Ed.* the Confessors  
dayes, as the author of the *old.*  
*nat. br.* saith. *f. 15.* containing in it  
not onely all the lands through  
England, but also all the names  
of those, in whose hands they  
were at that time when the book  
was made. *M. Lamberd* in his  
explication of Saxon wordes  
(*verbo, Ius Dacorum, &c.*) proueth  
out of *Gervasius Tilburienfis*, that  
this booke was made in *Wil-*  
*liam* the Conquerors time: with  
whome agreeth *M. Camden* in  
his



his *Britan. pag. 94.* prouing it out of *Ingulphus*, that flourished the same time. And for the beter commendation of the booke, it is not amisse to set downe the words of *Ingulphus*, touching the contents thereof. *Totam terram descripsit. Nec erat hyda in tota Anglia, quin ualorem eius & possessorem scriuit, nec lacus nec locus aliquis, quin in Regis rotulo extitit descriptus, ac eius redditus & proventus, ipsa possessio, & eius possessor regie notitie manifestatus, iuxta taxatorum fidem qui electi de qualibet patria territorium proprium describebant. Iste rotulus vocatus est Rotulus Wintonie, & ab Anglis pro sua generalitate, quod omnia tenementa totius terra continuit (Domesday) cognominatur.* So it is called in the Statute *anno pri. Ric. 2. cap. 6.* And in *Ockhams lucubrations de fisci Regii ratione*, which seemeth to be taken out of the Booke called (*Liber rubens*) in the Exchequer. It is termed (*liber Iudiciorum*) and the reason why *quia in eototius Regni descriptio diligens continetur: & tam de tempore Regis Edwardi, quam de tempore Regis Willielmi, sub quo factus est, singulorum fundorum ualentia exprimitur.*

*Dorture (Dormitorium)* *anno. 25. H. 8. ca. 11.* is the common roome, place or chamber, where all the friers of one couent slept, and lay all night.

*Dote assignanda*, is a writ that lieth for a widowe, where it is found by office, that the kings tenent was seised of tenements in fee, or fee taile, at the day of his death, &c. and that hee holdeth of the king in cheife, &c. For in this case the widowe commeth into the Chauncerie, and there maketh oath, that shee will not mary without the kings leaue. *Anno 15. Ed. 3. ca. 4.* and herevpon shee shall haue this writte to the Escheatour, for which see the Register originall fol. 297. and *Fitzh. nat. br. f. 263.* And this sort of widowes is called the kings widowe. See *Widowe.*

*Dote unde nihil habet*, is a writ of dower, that lyeth for the widow against the tenent, which hath bought land of her husband in his life time, whereof he was seised solely in fee simple, or fee taile, in such sort as the issue of them both might haue inhereted it. *Fitzh. nat. br. fol. 147. Register fol. 170.*

*Dotis admensuratione*, See *Admensurement.* See the Register. fol. 171.

*Doitkins*, a kinde of coine. *placor: fol. 37.* It seemeth to come of the Dutch word *Duyken*, that is, the eight part of a *Suifer*, or French *Shilling*, which in latine is called *Solidus Gallicus.*

*Doubles. anno 14. H. 6. cap. 6.* signifie as much as leters patents, being as it seemeth a French word made of the Latine (*diploma.*)

*Double plea, (duplex placitum)* is that, wherein the defendant alledgeth for himselfe two seuerall maters, in barre of the action, whereof either is sufficient to effect his desire in debarring the plaintiffe. And this is not to be admitted in the common law: wherefore it is well to be obserued, when a plea is double, and when it is not. For if a man alledge seuerall maters, the one nothing depending of the other, the plea is accounted double. If they be mutually depending one of the other, then is it accompted but single. *Kitchin fo. 223. See Broke hoc titulo.* But why this doublenes (for so *Kitchin* calleth it, *fol. 234.*) should bee debarred, I see no reason (vnder correction all things being spoken.) For a man may haue two good defences: and happily in the issue he shall contrarily to his hope faile in prouing the one, and yet be able to carie the cause by the other. And therefore not onely the Civilians, but *Bracton* also saith: *Pluribus exceptionibus uti nemo prohibetur. lib. 5. tract. 5. cap. 5. num. 4.* whom also reade *libro, 4. cap. 17.* And Sir *Thomas Smiths* reason of this

scantly satisfieth me, alledging this to be the course of our proceeding, because the triall is by twelue rude men, whose heades are not to be troubled with ouer many things at once. *lib. 2. de Repub. Anglor. cap. 13.*

*Double quarell (duplex querela)* is a complaint made by any Clerke or other vnto the Archbishop of the Prouince, against an inferiour ordinarie for delaying of iustice in some cause ecclesiasticall: as to giue sentence or to institute a clerke presented, or such like. The effect whereof, is that the said Archbishop taking knowledge of such delay, directeth his leters vnder his authenticall scale, to all and singular clerkes of his Prouince, thereby commaunding and authorizing them and euery of them, to admonish the said Ordinarie, within a certaine number of dayes, namely, 9. dayes, to doe the iustice required, or otherwise to cite him to appeare before him or his officiall, at a day in the said leters prefixed, and there to alledge the cause of his delay. And lastly, to intimate to the said Ordinarie, that if he neither performe the thing enioyned, nor appeare at the day assigned, he himselfe will, without farther delay, proceed to perform the iustice required. And this seemeth to be termed a double

A a 1 quarell,



because it is most commonly made against both the Iudge, and him at whose petition iustice is delayed.

*Dower* (*dos*) commeth of the French (*douaire*) and signifieth in our common lawe, two things: first, that which the wife bringeth to her husband in mariage, otherwise called *maritagium*, mariage good: next, and more commonly, that which she hath of her husband, after the mariage determined, if she out-line him. *Glanville. lib. 7. cap. 1. Bracton. lib. 2. cap. 38. Britton. cap. 101. in princ.* And in Scotland, (*dos*) signifieth iust as much. *Stene de verb. signif. verbo.* *Dos.* The former is in French called (*dot*) the other *douaire*, and by them latined *dowrium*. I likewise once thought it not vnreasonable, to call the former a *Dowrie*, & the other a *Dower*: but I find them confounded. For exāple: *Smith de rep. Anglo. p. 105.* calleth the later a *dowrie*, and *dower* is sometime vsed for the former: as in *Britton ubi supra.* yet were it not inconuenient to distinguish them being so diuers. The Civilians call the former (*dotem*) and the later (*donationem propter nuptias.*) Of the former the common law bookes speake very litle. This onely is to be noted, that whereas by the ciuile lawe, instruments are made be-

fore mariage, which containe the quantitie of the wiues dowrie, or substance brought to her husband, that he hauing the vse of it, during mariage, may, after certaine deductions, restore it againe to his wiues heires or friends, after the mariage dissolved: the common lawe of *England*, whatsoeuer chatels moueable or immoueable, or readie money she bringeth, doth make them soorthwith her husbands owne, to be disposed of, as he will, leauing her at his courtesie, to bestow any thing or nothing of her at his death. The reason whereof is said to be, the holding of the wife in obedience to her husband. Onely if she be an inheretrix, her husband holdeth the land but during her life, except he haue issue by her: but then he holdeth it by the courtesie of *England* during his owne life. See *Courtesie*. And againe, if he haue any land in fee, whereof he was possessed during the mariage, she is to haue a third thereof during her life, though she bring nothing to him, except she doe by fine release her right, during the mariage. So that here is no great mater to bee spoken of, but touching *dower* in the later signification. You must know therefore, that vpon speech of mariage betweene two, the parents of both sides are commonly

monly more carefull in providing each for his childe, then the parties themselves: and that by their meanes there bee diuers bargaines made, sometime for the conuenance of lands, &c. to them and their issue: and this is said to be giuen in franke mariage: sometime to her during her life, and that before, or at the mariage: if before mariage, then it is called a Ioynture. For a Ioynture is a covenant, whereby the husband, or some for him is tyed (*ratione iunctura*) in consideration of the mariage, that the wife suruiuing him, shall haue during her life, this or that tement or lands, or thus much rent yearely payble out of such land, &c. with clause of distresse: and this may be more or lesse, as they doe accord. *Britton, cap. 101.* whome read also *ca. 102. 103. 104.* for *conuentio vincit legem*. *Bracton, lib. 5. tract. 4. cap. 9.* The diuersitie of these Ioyntures, you may see in *West. parte prima symbol. lib. 2. sect. 128. 129. 130. 131. 132. 133.* But if none of these former bargaines passe before mariage, then must the wife stick to her Dower: and that is sometime giuen at the Church doore or the Chappell doore, if the mariage bee by licence, but not the chamber doore; and may bee what the

husband will: so it exceede not a third part of his lands. *Glanvile libro. 6. cap. pri.* Or the halfe, as some say. *Fitzh. nat. br. fol. 150. N. P.* And this Dower is either certainly set downe and named, or not named but onely in generalitie, as the law requireth: if it be not named, then is it by lawe, the third part, and called (*dos legitima*) *Bracton, lib. 4. tracta. 6. cap. 6. 11. 6. & 10. Magna. Charta. c. 7.* or the halfe by the custome of some countries, as in *Gavelkinde. Fitzh. nat. br. fol. 150. O.* And though it bee named, it seemeth that it cannot bee aboue halfe the lands of the husband. *Fuzh. nat. br. fol. 150. P.* And the woman that will chalenge this dower, must make 3. things good, viz. that shee was married to her husband, that he was in his life time seised of the land, whereof shee demaundeth dower, and that he is dead. *Cokes reportes li. 2. Bingham's case. fo. 93. a.* Of these things see *Glanvile, li. 6. cap. 1. 2. & 3. Bracton lib. 2. ca. 38. 39. & lib. 4. tracta. 6. cap. 1. & 6.* and *Britton cap. 101. 102. 103. 104.* and *Fitzherb. natur. brev. fol. 147. 148. 149. & 150.* And this custumary dower, seemeth to be obserued in other nations, as well as in ours. *Hotoman verbo Dotalitum in verbis feudal: Cassan. de consuetud. Burg. pag. 580. 676. 677. & de conventionali. p. 720.* And to these



ioyne the ground Customarie of *Normandie*, cap. 102. where you shall perceiue, that in a maner all our lawe in this point is taken from the *Normans*: See *Endowment*. Of dower reade *Fleta* likewise, who writeth largely thereof, and hath many things worth the learning. *li. 5. ca. 22 & seqq.*

*Dozenne*. See *Decennier*.

*Drags*. *ano. 6. H. 6. ca. 5.* seeme to be wood or timber so ioyned together, as swimming or floating vpon the water, they may beare a burden or load of other wares downe the river.

*Drawe latches*. *anno. 5. Ed. 3. ca. 14. & anno. 7. Rich. 2. ca. 5.* *Master Lamberd*, in his *Eirenarch lib. 2. ca. 6.* calleth them miching theeves, as *Walters* and *Roberdsemen* mighty theeves, saying that the words be growne out of *vse*.

*Dreit Dreit*, signifieth a double right, that is *ius possessionis*, & *ius Domini*. *Bracton. lib. 4. cap. 27. & lib. 4. tracta. 4. cap. 4. & lib. 5. tracta. 3. cap. 5.*

*Drye exchange*. *an. 3. H. 7. ca. 5.* (*Cambium siccum*) seemeth to be a cleenly terme inuented for the disguising of foule vsury, in the which some thing is pretended to passe of both sides, whereas in truth, nothing passeth but on the one side: in which respect it may well be called drie. Of this *Ludonicus Lopes tractat: de*

*contract: & negotiatio. lib. 2. ca. pri. §. Deinde postquam.* writeth thus: *Cambium est reale vel siccum. Cambium reale dicitur, quod consistentiam veri Cambii realem habet, & Cambium per trans. & Cambium minutum. Cambium autē siccum est Cambium non habens existentiam Cambii, sed apparentiam ad instar arboris exsiccata, qua humore vitali iam carens apparentiam arboris habet, non existentiam. Summa Sylv: Verbo Vsuræ. quest. 6. Est ergo Canobium siccum iuxta hanc acceptionem (in qua etiam accipitur in Extrau. Pii quinti) idem quod Cambium fictū. Non autē habet propriam naturam Cambii, sed mutui & vsuræ. At verò secundum Laurentium de Nauarra in Comento de vsuris & Cambiis citatam, Cambium siccum in alia acceptione minus communi sumptum est Cambium, in quo Campsor prius dat quam accipiat. Dicitur autem isto modo siccum, quia sine præuia acceptione dat Campsor. Quod tamen, vsic acceptum (autore Siluestro) licet celebratur aliquando. Quia tunc verum & reale Cambium est differens genere ab eo Cambio, in quo Campsor prius recipit. Quia in isto Campsor semper primo dat & deinde accipit.*

*Drift of the Forest*, seemeth to be nothing but an exact view or examination, what catell are in the forest: that it may be known, whether it be ouercharged or

not, and whose the beastes be. This drift, when, how often in the yeare, by whome, and in what maner it is to be made, see *Mannwood parte. 2. of his forest lawes. cap. 15.*

*Droit d' Advowzen.* See *Recto de advocacione Ecclesie.*

*Droit clofe.* See. *Recto clausum.*

*Droit de dower.* See *Recto dotis.*

*Droit sur Disclaimer.* See *Recto sur disclaimer.*

*Droit patent.* See *Recto patens.*

*Duces tecum*, is a writ commaunding one to appeare at a day in the chauncery, and to bring with him some peece of euidence, or other thing, that the court would view. See the new booke of Entries, *verb. Duces tecum.*

*Duke (Dux)* commethe of the french (*Duc*) It signifieth in auncient times among the Romaines *Ductorem exercitus*) such as led their armies, who if by their prowes they obtained any famous victory, they were by their souldiers saluted (*Imperatores*) as *Hotoman verbo Dux, de verbis feudl:* proueth out of *Lyvy, Tully*, and others. Sithence that they were called (*Duces*) to whome the king or people committed the custodie or regiment of any province. *Idem. eod.* And this seemeth to proceede from the *Lombards or Germans*, *Sigon de regno Ital. l. 4.* In some natiōs at

this day, the Soveraignes of the country, are called by this name, as *Duke of Russia, Duke of Srethen.* Heere in England, *Duke* is the next in seculer dignitie to the Prince of Wales. And as (*M. Camden* saith) heretofore in the Saxons times, they were called *Dukes*, without any addition, being but meere officers, and leaders of armies. After the Conquerour came in, there were none of this title vntil *Edward* the thirds daies, who, made *Edward* his son *Duke of Cornwaile.* After that there were more made, and in such sort, that their titles descended by inheritance to their posteritie. They were created with solemnitie (*per circumferentiam gladii, cappae, & circuli aurei in capite impositionem, vide Camden. Britan. ps. 166. Zafum de feudis parte. 4. nu. 7. & Cassan. de consuetud. Burg pag. 6. & 10. and Ferns glory of generosity. pag. 139.*

*Dutchy court*, is a court, where in all maters appertaining to the *Dutchy of Lancaster*, are decided the decree of the Chauncelour of that Court. And the originall of it was in *Henry* the fourthes daies, who obtaining the crown, by deposing *Richard* the second, and hauing the *Dutchy of Lancaster* by discent in the right of his mother, he was seised thereof as king, and not as *Duke.* So that all the liberties, fraunchises, and



Jurisdiccions of the said *Dutchy* passed from the king by his graund seale, and not by livery, or attournment: as the possessions of *Everwicke*, and of the *Earldome of March*, and such others did, which had descended to the king, by other Auncesters then kings. But at the last, *Henry the 4.* by authoritie of *Parlament* passed a charter, whereby the possessions, liberties, &c. of the said *Dutchy* were severed from the Crowne: Yet *Henry the 7.* reduced it to his former nature, as it was in *Henry the fifts* daies. *Crompton Jurisdicc.* fol. 136. The officers belonging to this Court are, the Chauncellour, the Attorney, Receiver generall, Clerke of the court, the Messenger. Beside these, there be certain Assistentes of this Court: as one Attorney in the Exchequer: one Attorney of the *Dutchy* in the Chauncery, foure learned men in the lawe, retained of counsell with the King in the said court. Of this Court *M. Gwin.* in the preface to his readings thus speaketh: The court of the *Dutchy* (or Countie Palatine of *Lancaster*) grew out of the graunt of king *Edward the third*, who first gave the *Dutchy* to his sonne *Iohn of Gawnte*, and endowed it with such royall right, as the Countie Palatine of *Chester* had: and for as much as it was

afterward extinct in the person of king *Henry the fourth*, by reason of the vnion of it with the Crowne: the same king suspecting himselfe to bee more rightfully *Duke of Lancaster*, then king of England, determined to saue his right in the *Dutchy*, whatsoever should befall of the Kingdome: and therefore hee separated the *Dutchy* from the Crowne, and settled it so in the naturall persons of himselfe and his heires, as if he had bin no king or Politique bodie at all: In which plight it continued, during the reigne of *K. Henry the 5.* and *Henry the 6.* that were descended of him. But when *King Edw. the 4.* had (by recouery of the Crowne) recontinued the right of the house of *Yorke*, hee feared not to appropriate that *Dutchy* to the Crowne againe: and yet so, that hee suffered the Court and Officers to remaine as he founde them. And in this maner, it came together with the Crowne, to *King Henry the 7.* who liking well of that policy of *King H. the 4.* (by whose right also hee obtained the Kingdome) made like separation of the *Dutchy*, as hee had done, and so left it to his posterity which doe yet inioy it.

*Dumfuit infra atatem*, is a writ which lyeth for him, that before hee came to his full age, made a fe-

a feofment of his land in fee, or for terme of life, or in taile, to recover them againe from him, to whome he conveyed them. *Fitzh. nat. br. fol. 192.*

*Dum non fuit compos mentis*, is a writ that lieth for him, that being not of sound memory, did alien any lands or tenements in fee simple, fee tayle, for terme of life, or of yeeres, against the alienee. *Fitzh. nat. br. fol. 202.*

*Duplicat*, is vsed by *Crompton*, for a second letters patent graited by the Lord Chauncelour, in a case, wherein he had formerly done the same: and was therefore thought void. *Cromptons In-risd. fol. 215.*

*Dures* (*Duritia*) commeth of the French (*dur. i. durus, vel durete. i. durit. u*) and is in our common lawe, a plee vsed in way of exception, by him that being cast in prison at a mans suite, or otherwise by beating or threats hardly vsed, sealeth any bond vnto him during his restraint. For the lawe holdeth this not good, but rather supposeth it to be constrained. *Brooke* in his *Abridge-ment* ioyneth *Dures* and *Manasse* together. *i. duritiam & minus*, hardnes and threatning. See the ewe booke of Entries, *verbo Dures*, and the new *Termes of law*.

## E A

*Alderman* (*Aldermannus*) among the Saxons, was as

much as Earle among the *Danes*. *Camden. Britan. pag. 107.* If yee goe to the true etimologie of the word, mee thinketh, it shoud sound more generally, so much as *πρόβος* with the *Grecians*, or *Senator* with the *Romanes*: who were rather Councillers at large, then bestowed vpon any particular office, as *Comites* were. See *Countie*. And that signification we retaine at this day almost in all our Cities, and Borowes, calling those Aldermen, that are Associates to the Chiefe Officer in the common councill of the Towne. *anno 24. H. 8. ca. 13.* or sometime the cheife officer himselfe, as in *Stamford*.

*Earle* (*Comes*) in *M. Camdens* opinion. *pag. 107.* is a word made by the *Danes* of (*Ealderman*) a word of the *Saxons*. *M. Lamberd* seemeth notwithstanding to acknowledge, that *Earle* is originally a Saxon word. *Explica. of Sax. words. verbo Paganus*: and interpreteth it (*Satrapam*) which word the *Romaines* borrowing of the *Persians*, applied to those that were *praefecti provinciarum*. *M. Verslegan* in his restitution of decayed intelligence, deriueith it from two *Netherland* words (*ear. i. honor*) and (*ethel i. nobilis*) wherein I leaue the reader to his owne judgement. This title in auncient time, was giuen to those, that were associates to the king in his coun-



councels and Marshall actions (as Comes was to those that followed the Magistrates in Roome, and executed their offices for them as their deputies, and died alwaies with the man. Zafius hath of this word thus much. *Comitū originem in Doctoribus non invenimus: sed noveris eam dignitatem vetustissimam esse. Nam Cor. Tacitus in libello de Germania scribit apud priscos usu fuisse receptum, ut cuilibet principi seu Duci exercitus duodecim comites assignarentur: ideo dictos, quia comitarentur eos, & à Ducum latere non decederent. Comitū itaq; originē Germanis moribus ortum esse, dictus receptissimus autor testis est. Quapropter quod in duodecimo libro Codicis aliqui tituli de Comitibus largitionum &c. inscribuntur, usurpationem Imperatoris ex Germanorum ritibus sumptam credo.* But the Conquerour (as *M. Camd.* saith) gave this dignitie in fee to his nobles, annexing it to this or that countie or province, and allotted them, for their maintenance, a certaine proportion of monie rising from the Princes profits, for the pleadings and forfeitures of the province. For example, he bringeth an ancient Record in these words. *Henricus 2. Rex Anglie his verbis Comitum creavit: Scitis nos fecisse Hugonet Bigot Comitē de Norfolke, seu de tertio denario de Norwic. &*

*Northfolke, sicut aliquis comes Anglie liberius comitatum suum tenet.* Which words (saith the same author) an ould booke of Battell Abbie thus expoundeth: *Consuetudinaliter per totam Angliam mor antiquitus inoleverat, Comites provinciarum tertium denarium sibi obtinere, inde Comites dicti.* And another booke without name more fully. *Comitatus a Comite dicitur, aut vice versa. Comes autem est, quia tertiam portionem eorum, qua de placitis proveniunt, in quolibet Comitatu percipit. Sed non omnes Comites ista percipiunt: sed hii quibus Rex hereditario aut personaliter concessit.* You may reade *M. Fern* in *Lacyse* nobility, some thing to this effect. *pa. 12.* But he saith, that one Duke or Earle had diuers Shires vnder his gouernment, as a viceroy, and had lieutenants vnder him in euery particular Shire, called a Shyreue. That one Earle was dignified by the appellation or more then one Shyreue, it appeareth by diuers of our auncient Statutes, as namely by the sentence of excommunication pronounced by the Bishops against the infringers of the great Charter, & charter of the forest. *anno. 38. H. 3.* Roger Bigot is named Earle both of Northfolke and Southfolke, and *anno 1. Ed. 3.* Thomas Earle of Lancaster and Leycester. *Humsfry Boburn.* Earle of Hereford

ford and Essex. Dyer. fo. 285. nu. 39. At these daies, as long since, the kings of England make Earles by their charters, of this or that Countie, giuing them no authoritie ouer the Countie, nor any part of the profit rising of it, but onely some annuall stipend out of the Exchequer, rather for honours sake, then any great commoditie. And these bee in other nations accompted Earles improperly. *Quia illi dicuntur verè Comites, quibus datur Comitatus in feudum: illi Comites abusu sūt, qui non habent administrationem. Vincentius de Franchis. de scis. 115. nu. 7.* The maner of creating Earles is by girding them with a sword. Camden. pag. 107. but see the solemnitie thereof described more at large in Stoves annals. pa. 1121 The occasion why these Earles in later time haue had no swaye ouer the Countie, whereof they beare their name, is not obscurely signified in Sir Thomas Smith lib. 2. cap. 14. where he saith, that the Shyreuee is called *Vicecomes*, as (*Vicarius Comitis*) following all maters of iustice, as the Earle should do: and that because the Earle is most commonly attendant vpon the king, in his warres or otherwise. So that it seemeth that Earles by reason of their high employments, being not able to follow also the businesse of the countie, were deliuered

of all that burthen, and onely enioyed the honour, as now they doe. And the Shyreuee, though he be still called *Vicecomes*, yet all he doth, is immediately vnder the king, and not vnder the Earle. See Countie, & see Hotoman. de verb. feudal. verbo Comes: and Cassan. de consuetud. Burg. p12.

*Easement*, (*esamentum*) is a seruice that one neighbour hath of another by charter or prescription, without profite, as a way through his ground, a sinke, or such like. Kitchin. fol. 105. which in the ciuill lawe is called *Seruitus praedii*.

*Eeles*, *aliâr*, *Eele Vare*. an. 25. H. 8. cap. 7. be the frie or brood of Eeles.

*Egyptians* (*Egyptiani*) are in our statutes and lawes of England, a counterfeite kinde of roagues, that being English or Welch people, accompany themselves together, disguising themselves in traunge robes, blacking their faces and bodies, and framing to themselves an vnknown language, wander vp and downe, and vnder pretence of telling of Fortunes, curing diseases, and such like, abuse the ignorant common people, by stealing all that is not too hote or too heauie for their cariage. anno 1. & 2. Phi. & M. cap. 4. anno 5. Eliz. cap. 20. These are very like to those, whom the Ita-



lians call *Cingari*: of whom *Franciscus Leo in suo thesauro fori ecclesiastici parte prim. cap. 13.* thus writeth: *Cingari, qui corrupto vocabulo, quandoque etiam Saraceni nominantur, & permissione principis ac aliorum dominorum, per Italiam vagantur, nec unquam viderunt partes infidelium, minusq; legem Mahometi noverunt: sed sunt fere omnes Itali, & male habitati, ex rebus furtivis vivunt, ac fraudulentis earum permutationibus & ludis, in quibus ut plurimum fraudes committunt, & sunt baptizati.*

*Eiectione custodia*, *Eiectione de gard*, is a writ which lyeth properly against him, that casteth out the Gardian from any land, during the minority of the heire. *Register origin. fol. 162. Fitz. nat. br. fol. 139.* Tearmes of the law. verbo. *Gard*. There be two other writs not vnlike this: the one is tearmed *Droit de gard*, or right of guard, the other *Rauishment de Gard*. Which see in their places.

*Eiectione firma*, is a writ, which lyeth for the Lessee for terme of yeares, that is cast out before the expiration of his tearme, either by the leassour, or a stranger. *Register fol. 227. Fitz. nat. br. fol. 220.* See *Quare eiecit infra terminum*. See the new booke of Entries. verbo *Eiectione firme*.

*Einecia*, is borrowed of the French (*Aisne. i. primogenitus*) and

signifieth in our common lawe, Eldership. Statute of Ireland. anno 14. Hen. 3. Of this see *M. Skene de verb. signif. verbo. Eneya*.

*Eyre*, aliis, *Eyer*, (*Iter. Bracton lib. 3. cap. 11. in Rubrica*) cometh of the old French word (*Erre. i. iter*) as (*à grand erre. i. magnis itineribus.*) It signifieth in Britton cap. 2. the court of Iustices itinerantes: and Iustices in Eyre, are those onely, which Bracton in many places calleth (*Iusticiarios itinerantes*) of the Eyre, reade Britton ubi supra, who expresseth the whole course of it. And Bracton. lib. 3. tractat. 2. cap. 1. & 2. The Eyre also of the Forest is nothing, but the Iustice seate otherwise called: which is or should by auncient custome, be held euery three yeare by the Iustices of the forest, journeying vp and downe to that purpose. *Cromptons Inrol. fol. 136. Mamood parte prima* of his Forest lawes. pag. 121. See *Iustice in Eyre*. Reade *Skene de verborum significa. verbo. Iter*: whereby, as by many other places, you may see great affinity betweene these 2. Kingdomes in the administration of Iustice and government.

*Election de Clerke* (*Electione clerici*) is a writ, that lyeth for the choyce of a clerke, assigned to take and make bonds called *statute Merchant*: and is graunted out of the Chauncerie vpon suggestion

gestion made, that the Clerke formerly assigned, is gone to dwell in another place, or hath hinderance to let him from following that businesse, or hath not land sufficient to answer his transgression, if he should deale amisse, &c. *Fitzh. nat. br. fol. 164.*

*Elegit*, is a writ Iudiciall, and lyeth for him, that hath recovered debt or dammages in the kings court, against one not able in his goods to satisfie: and directed to the Shyreene, commanding him that he make deliury of halfe the parties lands or tenements, and all his goods, oxen and beasts for the plough excepted. *Old nat. br. fol. 152. Register originaill fol. 299. & 301.* and the Table of the Register Iudiciall, which expresseth diuers vses of this writ. The author of the new terms of law saith, that this writ should be shewed within the yeare, whom read at large for the vse of the same.

*Elk*, a kinde of ewe to make bowes of. *anno 33. H. 8. cap. 9.*

*Empanel* (*Impanellare*, *Ponere in assis & Iuratis*) commeth of the french (*Panne. i. pellis*) or of (*Panneau*) which signifieth some time as much as a pane with vs, as a pane of glasse, or of a windowe. It signifieth the wrighting or entering the names of a lury into a parchment schedule or

Rolle or paper, by the Shyreene, which he hath sommoned to appeare for the perfourmance of such publique seruice, as Iuries are employed in. See *Panell*.

*Emparance*, commeth of the french (*Parler*) and signifieth in our common lawe, a desire or petition in court of a day to pause, what is best to doe. The ciuilians call it (*petitionem induciarū*) *Kitchin fol. 200.* interpreteth it in these words: If he imparle or pray continuance. For praying continuance is spoken *interpretatiue* in that place, as I take it. The same author maketh mention of *Emparance* generall. *fol. 201.* and *Emparance* speciall *fol. 200.* *Emparance* generall seemeth to be that which is made onely in one word, and in generall terms. *Emparance* speciall, where the party requireth a day to deliberate, adding also these words: *saluis omnibus aduantiagiis tam ad iurisdictionem Curie quam ad breue & narrationem*, or such like: *Britton* vseth it for the conference of a lury vpon the cause committed vnto them. *ca. 53.* See *Imparance*.

*Emprovement*, See *Improvement*.

*Encheson*. *A. 50. Ed. 3. ca. 3.* is a french word, signifying as much as occasion, cause, or reason wherefore any thing is done, See *Skene de verbo. significa: verbo Encheson*.



*Encrochement* or *Accrochemēt*, commeth of the french (*Accrocher*. 1. *apprehendere, inuncare, harpagare*) and that commeth of (*Crochure*. 1. *aduncius*) or (*crochu*. 1. *aduncus*) *Encrochement*, in our common law, signifieth an unlawful gathering in vpon another man. For Example, if two mens grounds lying together, the one presseth too farre vpon the other: or if a tenent owe two shillings rent seruice to the Lord, & the Lord taketh three: So *Hugh* and *Hugh Spencer* encroched vnto them royall power and authoritie, *annoprim. Ed* 3. *in proem.*

*Enditement* (*Indictamentum*) commeth of the French (*Enditer*. i. *deferre nomen alicuius, indicare*) or from the Greeke *εἰς ἐμ-  
νομήν*, because *M. Lamberd* will haue it so. *Eirenar. lib.* 4. *cap.* 5. *pag.* 468. It signifieth in our common lawe, as much as (*Accusatio*) in the ciuile lawe, though it haue not in all points the like effect. *West parte* 2. *symb. titulo, Inditements*) defineth it thus: An Inditement is a Bill or declaration made in forme of lawe, (for the benefite of the common wealth) of an accusation for some offence, either criminall or penall, exhibited vnto Iurours, and by their verdict found and presented to be true, before an Officer hauing power

to punish the same offence. It is an accusation, because the Iury that inquireth of the offence, doth not receiue it vntill the party that offereth the Bill, appeare to farre in it, as to subscribe his name, and offer his oth for the truth thereof. It differeth from an Accusation in this, that the preferrer of the Bill is no way tyed to the prooffe thereof vpon any penalty, if it be not proued, except there appeare conspiracy. Wherefore, though moued by *M. Wests* authority, I call it an Accusation: yet I take it to be rather (*Denuntiatio*) because it is of office done by the great enquest, rather then of a free intent to accuse. Of this you may reade. *S. Tho. Smith de Repub. Anglor. lib.* 2. *cap.* 19. and *Stawnsf. pl. cor. lib.* 2. *cap.* 23. 24. 25. 26. &c. *Vsq.* 34. and *M. Lamberds Eirenarcha. li.* 4. *ca.* 5. whence you may receiue good satisfaction in this mater.

*Endowment* (*Dotatio*) commeth of the french (*Dotiare*) and signifieth the bestowing or assuring of a *Dower*. See *Dower*. But it is sometime vsed metaphorically, for the setting forth or seuering of a sufficient portion, for a vickar toward his perpetuall maintenance, when the benefice is appropriated. See *Appropriation*. And the statute *A.* 15. *R.* 2. *cap.* 6.

*Endowment de la plus Belle part.* is where a man dying seised of some lands, houlding in knights seruice, and other some in socage, the widow is sped of her dower, rather in the lands houlding in socage, then knights seruice. Of this reade *Littleton* more at large. *li. 1. ca. 5.*

*Enfranchisement*, cometh of the french (*Franchise. 1. libertas*) and is in a maner a french word of it selfe: It signifieth in our common law, the incorporating of a man into any societie, or body politicke. For example, he that by charter is made *Denizen* of *England*, is said to be enfranchised; and so is he that is made a citizen of *London*, or other city, or *Burges* of any towne corporate, because he is made partaker of those liberties that appertain to the corporation, whereinto he is enfranchised. So a villaine is enfranchised, when he is made free by his Lord, and made capable of the benefites belonging to freemen.

*Englecerie* (*engleceria*) is an old abstract word, signifying nothing else but to be an English man. For example, if a man be priuily slaine or murdered, he was in old time accompted (*Francigena*) which word comprehendeth euery alien, vntil *Englecerie* was proued: that is, vntill it were made manifest, that

he was an English man. A man may mauiell, what meaning there might be in this: but *Bracton* cleareth the doubt, who in his third booke *tract. 2. cap. 15. num. 3.* telleth vs, that when *Cannutus* the Danish king, hauing seised his estate here in peace, did at the request of our Barons, disburden the land of his armie, wherein he accompted his greatest saferie: and conditioned with them, that his countymen which remained here, should continue in peace: and the more to secure that, that for euery *Francigena* (vnder which word (as is aboue said) he comprehended all cutlandish men and women, and especially *Danes*) that was secretly murdered, there should be leaued to his *Treasurie* 66. merkes out of the village, where the murder was committed, or out of the hundred, if the village were not able to pay it: and further, that euery man murdered should be accompted *Francigena*, except *Englecery* were proued: which how it was to be proued, looke the 7. number in the same chapter. And see also *Horns myrror of Iustices. lib. 1. cap. del office del coroner*, and *Fleta lib. 1. cap. 30.* This *Englecerie* for the abuses and troubles that afterwarde were perceiued to grow by it, was cleane taken away, by a statute made anno



14. Ed. 3. cap. te quarto.

*Enheritance.* See *Inheritance.*

*Enquest* (*Inquisitio*) is all one in writing with the french word, and all one in signification both with the French and Latine. Howbeit, it is especially taken for that Inquisition, that neither the Romanes, nor French men euer had vse of, that I can learne. And that is the *Enquest* of Iurors, or by Iurie, which is the most vsuall triall of all causes both ciuile and criminall in our realme. For in causes ciuill after prooffe is made of either side, so much as each partie thinketh good for himselfe, if the doubt be in the fact, it is referred to the discretion of twelue indifferent men, empaneled by the Shyreuee for the purpose: and as they bring in their verdict, so iudgement passeth. For the Iudge saith, the Iurie findeth the fact thus: then is the law thus: and so we iudge. For the enquest in causes criminall, see *Iurie.* and see Sir Thomas Smith de Repub. Anglor. lib. 2. cap. 19. An enquest is either of office, or at the misse of the partie. *Stawns. pl. cor. lib. 3. cap. 12.*

*Entendment*, commeth of the French (*entendement. i. intellectus, ingenium.*) It signifieth in our common lawe so much, as the true meaning or signification of a word or sentence. See of this *Kitchin, fol. 224.*

*Entayle* (*feudum talliarum*)

commeth of the French (*entaille. i. incisus*) and in our common lawe, is a substantiue abstract, signifying Fee-tayle, or Fee-intayled. *Littleton* in the second chapter of his book, draweth Fee-tayle from the verbe *Talliare*, (which whence it cometh, or whether it will I know not) whereas in truth it must come from the French (*taille. i. sectura*), or (*tailleur. i. scindere, secare*) And the reason is manifest, because fee-tayle in the law, is nothing but fee abridged, scanted or curtailed, (as you would say,) or limited and tyed to certaine conditions. *Taille* in Fraunce is metaphorically taken for a tribute or subsidie. *v. Lupanum de Magistratibus Francorum. lib. 3. cap. Talea.* See *Fee.* See *Tayle.*

*Enterpleder* (*Interplacitare*) is compounded of two french words: (*entre. i. inter*) and (*pleder. i. disputare*) and it signifieth in our common law, as much as *cognitio preiudicialis* in the ciuile law: that is, the discussing of a point incidently falling out, before the principall cause can take end. For example, two seuerall persons being found heires to land by two seuerall offices in one countie, the king is brought in doubt to whether liuery ought to be made: and therefore before

for liuery be made to either, they must enterpleade, that is, formerly try betweene them selues, who is the right heire. *Stauus. preroga: chap. 19.* See more examples in *Broske. titulo Enterpleder.*

*Entiere tenancie*, is contrary to seuerall Tenency, signifying a sole possession in one man: wheras the other signifieth ioynt or common in more. See *Broske* seuerall tenancy. See the new booke of *Entries, verbo Entier tenancy.*

*Entry (Ingressus)* commeth of the french (*Entree. i. introitus ingressus, aditus*) and properly signifieth in our common lawe, the taking possession of lands or tenements. See *Plowden. Assise of fresh force in London. fo. 93. b.* It is also vsed for a writ of possession, for the which See *Ingressus*. And read *West* also, *parte. 2. Symbol. titulo Recoveries. sect. 2. & 3.* Who there sheweth for what things it lyeth, and for what it lyeth not. Of this *Britton* in his 114. chapter writeth to this effect. The writs of entrie fauour much of the right of propertie. As for example: some be to recouer customes and seruices: in the which are contained these twoe words (*soler & deber*) as the writs *Quo iure, Rationabilibus dimissis, rationabili estoverio*, with such like. And in this plee of entrie there

be three degrees: The first is, where a man demandeth landes or tenements of his owne seisin, after the terme is expired. The second is, where one demaundeth lands or tenements let by another after the terme expired. The third, where one demaundeth lands or tenements of that tenant, that had entry by one, to whom some aunccestor of the plaintife did let it for a term now expired. According to which degrees the writs for more fit remedie are varied. And there is yet a fourth forme, which is without the degrees, and in case of a more remote seisin, whereunto the other three degrees do not extend. The writ in the second degree is called a writ of entrie *in le per*: and a writ in the third degree is called a writ of entrie *in le per & euil*: and the fourth forme without these degrees, is called a writ of entrie *in le pest*, that is to say, after the disseisin which such a one made to such a one. And if any writ of entrie be conceiued out of the right case, so that one forme be brought for another, it is abarable. The form of the first degree is such. *Præcipe Willielmo quod reddat Petro manerium de B. cum pertinentiis quod ille dimisit pro termino, qui est elapsus.* The second is such: *Præcipe Petro quod reddat Willielmo manerium,*



rium &c. in quod ille non habuit ingressum nisi per patrem aut matrem, avunculum, vel amitam, vel cognatum, avum vel proavum dicti Petri, qui dictum manerium dimisit pro termino qui est elapsus. The third forme is such: *Præcipe Iohanni quod reddat Petro manerium de S. in quod ille non habuit ingressum nisi per T. cui talis pater vel mater, vel alius antecessor aut cognatus idem dimisit, cuius heres est ipse Petrus, pro termino, qui est elapsus.* And the forme without the degrees is such: *In quod non habuit ingressum, nisi post lessam, quam talis pater aut mater (sic ut supra) cuius heres ille est, inde fecit pro termino, qui est elapsus.* And in those foure degrees be comprehended all maner writs of entry, which be without certaintie and number. Thus farre Britton: by whome you may perceiue, that those words (*solet & debet*) and also those other words (*in le per*) (*in le per & cui*) and (*in le post*) which we meete with many times in bookes shortly and obscurely mentioned, do signifie nothing else, but diuers formes of this writ, applyed to the case, whereupon it is brought, and each forme taking his name from the said words contained in the writ. And of this reade Fitz. in his *nat. br. fol. 193. & 194.* This writ of entry differeth from an assise, because it lyeth for the

most part, against him, who entered lawfully, but houldeth against lawe: whereas an assise lyeth against him that vnlawfully disseised: yet sometime a writ of entrie lyeth vpon an intrusion *Regist. orig. fol. 233. b.* See the new booke of Entries, *verbo. Entre Brevis. fol. 254. colum. 3.* I reade of a writ of entry in the nature of an assise. Of this writ in all his degrees, reade *Fleta lib. 5. cap. 34. & seqq. 5.*

*Entrusio (Intrusio)* in our common lawe, signifieth a violent or vnlawfull entrance into lands or tenements, being vtterly voide of a possessor, by him that hath no right nor sparke of right vnto them. *Bracton lib. 4. cap. 2.* For example, if a man stepp in vpon any lands, the owner whereof lately died, and the right here, neither by himselte nor others, as yet hath taken possession of them. What the difference is betweene *Abator* and *Intrudor*, I do not well perceiue, except an Abatour be he that steppeth into land voide by the death of a tenant in fee, and an Entrudor that doth the like into lands, &c. voide by the death of the tenant for termes of life or yeares. See *Fitz. nat. br. fol. 203. F.* The author of the new Termes of law would haue abatement latined, (*Interpositionem, aut Introitionem per interpositionem*) and to be restrained

Springeth the Italian word (*Zeccha*) signifying a mynte: and *Zeccherii* alias *Zecchieri*) the officers thereunto belonging, *Defcis. Genuen* 134. *M. Cam.* in his *Britan. p.* 113. saith that this court or office tooke the name *à tabula ad quam assidebant*, proouing it out of *Gernasius Tilburienfis*, whose words you may read in him. This court is taken from the Normans, as appeareth by the *grand Custumarie. cap. 56.* where you may finde the *Eschequier* thus described. The *Eschequier* is called an assemblie of high *Iusticiers*, to whome it appertaineth to amend that which the Baliffes and other meaner *Iusticiers* haue euill done, and vnadvisedly iudged: and to doe right to all men without delaie, as from the princes mouth: *Skene de verbo. significatiore: verbo (Scaccarium)* hath, out of *Paulus Amilius* these words: *Scaccarium dicitur quasi Statarium, quòd homines ibi in iure sistantur, vel quòd sit stataria & perennis Curia, cum cetera curia essent inditiua, nec loco nec tempore stata:* where he saith also of himselfe, that in Scotland the *Eschequer* was stable, but the other session was deambulatorie, before *Iames the 5.* qui instituit *Statariam curiam, cum antea esset inditiua:* he addeth farther: Others thinke that *Scac-*

*carium* is so called a *similitudine ludi Scaccorum*, that is the play of the chests: because many persons meete in the Chequer, pleading their causes one against the other, as if they were fighting in an arraied battaile: Others think that it commeth from an old Saxon word (*Scata*) as writeth *S. Thomas Smith*, which signifieth treasure, taxation, or imposts, whereof accompt is made in the Chequer: This court consisteth, as it were, of 2. parts: whereof one is conuersant especially in the iudiciall hearing and deciding of all causes appertaining to the princes cofers, aunciently called *Scaccarium computorum*, as *Ockam* testifieth in his *lucubrations*: the other is called the receipt of the *Eschequer*, which is properly imployed in the receiuing and payment of money. *Crompton* in his *Iurisdictions*, fo. 105. defineth it to be a court of record, wherein all causes touching the reuenues of the crown are handled. The officers belonging to both these, you may finde named in *M. Camdens Britannia, ca. Tribunalia Anglia*, to whome I referre you. The kings exchequer which now is settled in *Westminster*, was in diuers countries of *Wales*, anno 27. H. 8. ca. 5. but especially ca. 26.

*Escheate (Eschaeta)* cometh of the French (*eschéoir, i. cadere, acci-*



dere, excidere, and signifieth in our common lawe, any lands or other profits, that fall to a Lord within his maner by way of forfeiture, or the death of his tenēt, dying without heire generall or especiall, or leauing his heire within age or vnnaried, *Magna chart. ca. 21. Fitzb. nat. br. fol. 143. T. & C.* Escheate is also vsed some time for the place or circuit within the which the king or other Lord hath escheates of his tenents. *Bracton li. 3. tract. 2. cap. 2. & pupilla oculi parte 5. ca. 22.* Escheate thirdly, is vsed for a writ, which lieth, where the tenent hauing estate of fee simple in any lands or tenements holden of a superiour lord, dieth seised without heire generall or especiall. For in this case the Lord bringeth this writ against him that possessieth these lands after the death of his tenent, and shall thereby recouer the same in lieu of his seruices. *Fitzb. nat. br. fol. 144.* These that we call Escheats, are in the kingdome of Naples called *Excadentia* or *bona excadentialia*: as: *Baro locat excadentius eo modo quo locata fuerūt ab antiquo: ita quod in nullo debita seruitia minuantur, & non remittit gallinam debitam: Iacobusius de Franchis in preludis ad feudorum usum, tit. 1. nu. 29. & nu. 23. v. Maranta singularia, verbo Excadentia.*

And in the same signification, as we say the fee is escheated, the Feudists vse (*feudum aperitur. li. 1. feud. titulo. 18. §. 2. ii. 15. & ti. 26. §. 4.*

Escheatour (Escaetor) commeth of (Escheate) and signifieth an officer that obserueth the Escheates of the king in the countie, whereof he is Escheatour, and certifieth them into the Eschequer: This officer is appointed by the *L. treasurer*, and by letters patents from him, and continueth in his office but one yeare, neither can any be Escheatour aboue once in 3. yeares. *anno. 1. H. 8. cap. 8. & anno 3. eiusd. ca. 2.* See more of this officer and his authoritie in *Cromptons Iustice of peace*. See *an. 29. Ed. 1.* The forme of the Escheatours oath, see in the Register original. *fol. 201. b. Fitzb.* calleth him an officer of record. *nat. br. fol. 100. C.* because that which he certifieth by vertue of his office, hath the credit of a record. *Officium escaetria*, is the escheatourship. *Register. orig. fo. 259. b.*

Escuage (*Scutiagium*) commeth of the French (*Escu. i. clipeus*) a bucler or sheild. In our common lawe, it signifieth a kinde of knights seruice, called seruice of the sheild, whereby the tenent holding is bound to follow his Lord into the *Scottish* or *Welsh* warres, at his owne charge: for the

the which see *Chyvalrie*. But note that *Eſcuage* is either vncertaine or certaine. *Eſcuage* vncertaine, is properly *Eſcuage*, and knights ſervice, being ſubiect to homage fealtie, ward and marriage, ſo called, becauſe it is vncertaine how often a man ſhall be called to followe his lord into thoſe wars, and againe what his charge wilbe in each iourney. *Eſcuage* certaine, is that which yearly payeth a certaine rent in lieu of all ſervices, being no further bound then to pay his rent, called a knights fee, or halfe a knights fee, or the fourth part of a knights fee, according to his land & this leſſeth the nature of knights ſervice, though it hold the name of *Eſcuage*, being in in effect, *Soccage*. *Fitzh. nat. br. fol. 84. C.*

*Eſnecy* (*AEſnecia*) is a prerogative giuen to the cheſt coparcener, to chooſe firſt after the inheritance is diuided. *Fleta. li. 5. ca. 10. §. in diuiſionem.*

*Eſplees* (*Expleta*) ſeeme to be the full profits that the ground or land yeldeth, as the hay of the meadowes, the feede of the paſture, the corne of the earable, the rents, ſervices, and ſuch like iſſues: *Ingham*. It ſeemeth to proceede from the latine (*expleo*) The profits comprised vnder this word, the Romans call properly *acceſſiones*. *Nam acceſſionum nomi-*

*ne intelliguntur ea generaliter omnia, que ex re, de qua agitur, orta ſunt, veluti fructus, partus, & omnis cauſa rei, & quacunque ex re procedunt. l. 2. π. De in diem adiectio. li. 50. π. Ad Trebel. l. 61. §. hiis etiam. π. de ſurt.* See the new Terms of law.

*Eſquier* (*Armiger*) is in letters little altered from the french (*Eſcuyer. i. ſcutiger*) It ſignifieth with vs a gentleman, or one that beareth armes, as a teſtimony of his nobilitie or gentrie. *S. Thomas Smith* is of opinion, that at the firſt, theſe were bearers of armes to Lords and Knights, and by that had their name and dignity. Indee the french word is ſometime tranſlated (*Ag-ſo*) that is, a boy to attend or keepe a horſe, and in ould Engliſh writers, it is vſed for a lackey or one that carieth the ſhield or ſpeare of a knight. *Maſt. Camden in his Britannia pag: 111.* hath theſe words of them: hauing ſpoken of Knights: *Hiis proximi fuere Armigeri, qui & ſcutiferi, hominesq; ad arma dicti, qui vel a clypeis gentilitiis, que in nobilitatis inſignia geſtant: vel quia principibus & maioribus illis nobilibus ab armis erant, nomen traxerunt. Olim enim ex hiis duo vnicuique militi ſerviebant, galeam clypeumque geſtabant. &c.* *Hotoman* in the ſixth chapter of his diſputatiōs vpon the feods ſaith, that theſe which the



French men call *Eſcuers*) were a militarie kinde of vaſſall haueing *ius ſcuti*, which is as much to ſay (he there interpreteth him ſelfe) as that they bare a ſhield, and in it the enſignes of their family, in token of their gentility or dignity.

*Effendi quietum de telonio*, is a writ that lieth for Citizens or burgeſſes of any city or towne, that haue a charter or preſcription to exempt them from tolle, through the whole realme, if it chaunce they be any where exacted the ſame. *Fitzb. nat. br. fol. 226. Register fol. 258.*

*Effoine* (*Effonium*) commeth of the French (*Effoniè* or *exonniè. i. cansarius miles*) he that hath his pretence forborne or excuſed vpon any iuſt cauſe, as ſickneſſe or other incumbrance. It ſignifieth in our common lawe, an alledgement of an excuſe for him that is ſummoned, or ſought for to appeare and anſwer to an action reall, or to performe ſuite to a court baron, vpon iuſt cauſe of abſence. It is as much as (*excusario*) with the Ciuilians. The cauſes that ſerue to *Effoine* any man ſummoned, be diuers & infinite: yet drawne to five heads, whereof the firſt is (*ultra mare*) the ſecond (*de terra ſancta*) the third (*de malo veniendi*) which is alſo called the common *Effoine* the fourth is (*de malo lecti*) the

fifth (*de ſeruitio Regis*) For further knowledge of theſe, I referre you to *Glanville* in his whole firſt booke, and *Bratton li. 5. tractat. 2. per totum.* and *Brittan ca. 122. 123. 124. 125.* and to *Hornes mirrour of Iuſtices, li. 1. ca. des Eſſoins*, who maketh mention of ſome more *Effoins* touching the ſeruice of the king celeftiall, then the reſt doe, and of ſome other points not vnworthie to be knowne. Of theſe *effoins* you may reade farther in *Fleta l. 6. c. 8. & ſeqq.* & that theſe came to vs fro the *Normans*, is well ſhewed by the *Grand Cuſtumarie*, where you may find in a maner all ſaid, that our lawyers haue of this mater, *cap. 39. 40. 41. 42. 43. 44. 45.*

*Effoins* and *profers*, anno 32. *H. 8. cap. 21. See Profer.*

*Effonide malo lecti*, is a writ directed to the Shyreue, for the ſending of 4. lawfull knights to view one that hath eſſoined himſelfe *de malo lecti*. *Register. orig. fol. 8. b.*

*Eſtablishment of dower*, ſeemeth to be the aſſurance of dower, made to the wife by the husband or his freinds, before or at marriage. And aſſignment is the ſetting it out by the heire afterward, according to the *Eſtablishment*. *Britton. cap. 102. & 103.*

*Eſtandard* or *Standard*, commeth

meth of the French (*Estandart*) or *Estandart*. i. *signum, vexillum*. It signifieth an Ensigne in warre, as well with vs as with them. But it is also vsed for the principall or standing measure of the King, to the scantling whereof, all the measures through the land, are or ought to be framed by the Clerk of the market, *Aulneger*, or other officer according to their functions, For it was established by the statute of *Magna charta. anno 6. H. 3. ca. 9.* that there should be but one scantlin of weights or measures thorough the whole realme, which is thence confirmed by *Anno 14. Ed. 3. ca. 12.* and many other statutes, as also that all should be fitted to the *Standard* sealed with the kings seale. It is not called a *Standard* without great reason: because it standeth constant and immoucable, and hath all other measures comming toward it for their conformance, euen as souldiours in field haue their *Standard* or colours for their direction in their march or skirmish. Of these *Standards* and measures, reade *Britton. cap. 30.*

*Estate*, commeth of the French (*Estat. i. conditio*) and signifieth especially in our common lawe, that title or in-

terest, which a man hath in lands or tenements, as estate simple, otherwise called fee simple, and estate conditionall or vpon condition, which is (as *Littleton* saith, *li. 3. ca. 5.*) either vpon condition indeede, or vpon condition in lawe. *Estate* vpon condition in deede is, where a man by deede indented infeofeth another in fee, reseruing to him and to his heires yearelie a certaine rent payable at one feast or at diuers, vpon condition that if the rent be behind, &c. that it shall be lawfull to the seefour and to his heires, to enter in the lands or tenements, &c. *Estate* vpon condition in lawe, is such as hath a consideration in the lawe annexed to it, though it be not specified in writing. For example, if a man graunt to another by his deed, the office of a Parkership for terme of his life, this estate is vpon condition in the lawe, or imploied by lawe. viz. if the Parker so long shall well and truly keepe the parke, &c. I reade also of an estate particular; which is an estate for life or for yeares. *Parkins Surrenders. 581.*

*Estopel*, seemeth to come from the French (*estouper. i. oppilare, obturare, stipare, obstipare*) and signifieth



fieth in our common lawe, an impediment or barre of an action growing from his owne fact, that hath or otherwise might haue had his action: for example: A tenent maketh a feofment by collusion to one: the Lord accepteth the seruices of the feoffee: by this he debarreth himselfe of the wardship of his tenents heire. *Fitz. nat. br. fo. 142. K.* Diuers other examples might be shewed out of him and *Brooke b. title Sir Edward Cooke. lib. 2. casu Goddard fol. 4. b.* defineth an *estoppel* to be a barre or hindrance vnto one to pleade the truth, and restraineth it not to the impediment giuen to a man by his owne act onely, but by anothers also. *li. 3. The case of Fines. fol. 88. a.*

*Estovers (Estoverium)* cometh of the French (*estouer. 1. fovere*) and signifieth in our common lawe, nourishment or maintenance: for example: *Bracton. lib. 3. tractat. 2. cap. 18. num. 2.* vseth it for that sustenance, which a man taken for felonie, is to haue out of his lands or goods for himselfe and his family, during his imprisonment: and the statute *anno 6. Ed. prim. cap. 3.* vseth it for an allowance in meate or cloath. It is also vsed for certaine allowances of wood, to be taken out of another mans woods. So is it vsed

*West. 2. cap. 25. anno 13. Edw. 1. M. West parte 2. Symbol. titulo Fines. sect. 26.* saith, that the name of *Estovers* containeth house-bote, hay-bote, and plow-bote: as if he haue in his graunt these generall words: *De rationabilis estoversio in boscis, &c.* he may thereby clayme these three.

*Estrepiement, or Estripament, (estrepementum)* cometh of the French word (*estropier. i. mutilare, obtruncare*) the which word the French men haue also borrowed of the Italians, or rather Spaniards, with whome (*Estropear*) signifieth to set vpon the racke. It signifieth in our common lawe, spoile made by the tenent for terme of life, vpon any lands or woods, to the preiudice of him in the reversion, as namely in the statute *anno 6. Ed. 1. ca. 13.* And it may seeme by the deriuation, that *Estrepiement* is properly the vnmeasurable soaking or drawing of the heart of the land by ploughing or sowing it continually, without manuring, or other such vsage as is requisite in good husbandrie. And yet (*Estropier* signifying *mutilare*) it may no lesse conueniently be applied to those, that cut downe trees or loppe them farder then the lawe will beare. This signifieth also a writte, which lieth in two sorts, the one is, when a man hauing an action depend-

ding (as a fordom, or *dum fuit infra atatem*, or writ of right, or any such other) wherein the demandant is not to recouer damages, sheweth to inhibite the tenant for making waste, during the suite. The other sort is for the demandant, that is adiudged to recouer seisin of the land in question, and before executio shewed by the writ *Habere facias seisinam*, for feare of waste to be made before he can get possession, sheweth out this writ: See more of this, in *Fitzh. nat. br. fol. 60. & 61.* See the Register orig. fol. 76. and the Register. iudicial. fol. 33.

*Estreat* (*extractum* vel *extra-cta*) commeth of the French (*Traict*) which among other things signifieth a figure or resemblance: and is vsed in our common lawe, for the copie or true note of an originall writing. For example, of amerciaments or penalties set downe in the rolles of a court, to be leauied by the Bayliffe or other officer, of euery man for his offence. See *Fitzh. nat. br. fol. 75.* *H. I. K. & 76. A.* And so is it vsed *Westm. 2. cap. 8. anno 13. Edw. 1.*

*Estrey* (*extrahura*) in our common law signifieth any beast not wilde, found within any Lordship, and not owned by any man. For in this case, if it being cried, according to lawe, in the

market townes adioyning, shall not be claimed by the owner within a yeare and a day, it is the Lords of the soyle. See *Britton cap. 17.* See *Estrayes* in the Forest, anno 27. *H. 8. cap. 7.* New booke of Entries. verbo. *Trespas concernant estrey.*

*Evidence*, (*Evidentia*) is vsed in our lawe generally for any prooffe, be it testimonie of men or instrument. Sir Thomas Smith vseth it in both sortes. *lib. 2. cap. 17.* in these words: Evidence, in this signification, is authenticall writings of contracts after the maner of England, that is to say, written, sealed, and deliuered. And *lib. 2. cap. 23.* speaking of the prisoner that standeth at the barre, to pleade for his life, and of those that charge him with felonie, he saith thus: then he telleth what he can say: after him likewise all those, who were at the apprehension of the prisoner, or who can giue any Indices or tokens, which we call in our language (*Evidence*) against the malefactor.

*Examiner* in the Chaucerie or Starre-chamber, (*examinator*) is an Officer in either Court, that examineth the parties to any suite vpon their oathes, or witnesses produced of either side: whereof there be in the Chaucerie two.

*Exception* (*exceptio*) is a stoppe



or stay to an action, being vsed in the ciuill and common lawe both alike, and in both diuided into dilatorie and peremptorie. Of these see *Bract. lib. 5. tract. 5. per totum*, and *Britton cap. 91. 92.*

*Exchange*, (*excambium*, vel *cambium*) hath a peculiar signification in our common lawe, and is vsed for that compensation, which the warrantor must make to the warrantee, valewe for value, if the land warranted be recovered from the warrantee. *Bracton lib. 2. cap. 16. & li. 1. cap. 19.* It signifieth also generally as much as (*Permutatio*) with the Civilians; as the Kings Exchange, anno 1. *H. 6. cap. 1. & 4. & anno 9. Ed. 3. stat. 2. cap. 7.* which is nothing else, but the place appointed by the king for the exchange of bullion; be it gold or siluer, or plate, &c. with the Kings coine. These places haue bene diuers heretofore as appeareth by the saide statutes. But now is there only one, viz. the tower of London conioyned with the mint. Which in time past might not be, as appeareth by anno 1. *Henrici 6. ca. 4.*

*Exchequer*, see *Eschequer*.

*Excheatour*, see *Escheatour*.

*Excommunication*, (*excommunicatio*) is thus defined by *Panor. milan*: *Excommunicatio est nihil aliud, quam censura à Canone, vel Iudice ecclesiastico prolata & infli-*

*cta, priuans legitima communione sacramentorum, & quandoque hominum.* And it is diuided in *maior* & *minor*, *Minor* est, per quam quis à *Sacramentorum* participatione conscientia vel sententia arcetur. *Maiores* est, quæ non solum à *Sacramentorum*, verum etiam fidelium communione excludit, & ab omni actu legitimo separat & diuidit. *Venatorius de sentent. excom.*

*Excommunicato capiendo*, is a writ directed to the Shyreuee, for the apprehension of him that standeth obstinately excommunicated for fortie dayes: for such a one not seeking absolution, hath or may haue his contempt certified or signified into the Chauncerie, whence issueth this writ, for the laying of him vp without baile or mainprise, vntill he conforme himselfe. See *Fitz. nat. br. fol. 62. & anno 5. Eliz. cap. 23.* and the *Regist. orig. fol. 65. 67. & 70.*

*Excommunicato deliberando*, is a writ to the vnder shyreuee, for the deliuey of an excommunicat person out of prison, vpon certificate from the Ordinary of his conformitie to the iurisdiction ecclesiasticall. See *Fitzh. nat. br. fol. 63. A.* and the *Register fol. 65. & 67.*

*Excommunicato recipiendo*, is a writ whereby persons excommunicate, being for their obstinacie committed to prison, and vnlawfull

lawfully deliuered thence, before they haue giuen caution to obey the authority of the church, are commaunded to be sought for and laide vp againe. *Register orig. fo. 67. a.*

*Executione facienda*, is a writ commaunding execution of a iudgement: the diuers vses whereof, see in the table of the register iudiciall. *verbo Executione facienda.*

*Executione facienda in Withernamum*, is a writ that lyeth for the taking of his catell, that formerly hath conueyed out of the county the catell of another, so that the bayliffe hauing authority from the shyreue, to repleuy the cattell so conueighed away, could not execute his charge. *Register originall fol. 82. b.*

*Execution (Executio)* in the common law, signifieth the last performance of an act, as of a fine, or of a iudgement. And the execution of a fine, is the obtaining of actuall possession of the things contained in the same, by vertue thereof: which is either by entry into the lands, or by writ: whereof see *West* at large, *parte. 2. Symbol. titulo Fines. sect. 136. 137. 138.* Executing of iudgements, and statutes, and such like, see in *Fitzh. nat. br. in Indice. 2. Verbo Execution. S. Ed. Coke. vol. 6. casu Blumfield. fo. 87. a.* maketh two sorts of executions,

one finall, another with a (*quousque*) tending to an end. An execution finall is that, which maketh mony of the defendants goods, or extendeth his lands, and deliuereth them to the plaintiffe. For this the party accepteth in satisfaction: and this is the end of the suite, and all that the kings writ commaundeth to be done. The other sort with a (*Quousque*) is tending to an end, and not finall, as in the case of (*capias ad satisfaciendum &c.*) this is not finall: but the body of the party is to be taken, to the intent and purpose to satisfie the demaundant: and his imprisonment is not absolute, but vntill the defendant doe satisfie. *Idem. ibidem.*

*Executour (Executor)* is he, that is appointed by any man, in his last will and testament, to haue the disposing of all his substance, according to the content of the said will. This Executor is either particular or vniuersall. *Particular*, as if this or that thing onely be committed to his charge. *Vniuersall*, if all. And this is in the place of him, whom the Ciuilians call *heredem*, and the law accounteth one person with the party, whose executor he is, as hauing all aduantage of action against all men, that he had, so likewise being subiect to euery mans action, as farre as himselfe was. This executor had



his beginning in the ciuill lawe, by the constitutions of the Emperours, who first permitted those, that thought good by their wils to bestowe any thing vpon good and godly vses, to appoint whome they pleased, to see the same performed, and if they appointed none, then they ordained, that the bishop of the place should haue authoritie of course, to effect it. *l. 28. C. de Episcopis & clericis.* And from this in mine opinion, time and experience hath wrought out the vse of these vniuersall executors, as also brought the administration of their goods that die without will, vnto the Bishop.

*Exemplificatione*, is a writ granted for the exemplification of an originall, see the *Register originall. fol. 290.*

*Ex gravi querela*, is a writ that lieth for him, vnto whome any lands or tenements in fee within a city, towne or borough, being devisable, are deuised by will, and the heire of the deuifour entresth into them, and detaineth them from him. *Register originall. fol. 244. Old nat. br. fol. 87. See Fitzh. nat. br. fol. 198. L.*

*Exigendarie of the common banke* (*Exigendarius de banco comuni*) is othervise called *Exigenter. anno 10. H. 6. cap. 4.* and

is an officer belonging to that court, for the which see *Exigenter.*

*Exigent* (*Exigenda*) is a writ, that lyeth where the defendant in an action personall, cannot be found, nor any thing within the county, whereby to be attached or distrained, and is directed to the Shyreue, to proclaime and call five county daies one after another, charging him to appeare vnder the paine of outlawrie. *Termes of the law.* This writ lyeth also in an indictment of felony, where the party indicted cannot be found: *Smith de Rep. Angl. li. 2. ca. 19.* It seemeth to be called an *Exigent*: because it exacteth the party, that is, requireth his expearance or forthcoming, to answer the lawe, for if he come not at the last daies proclamation, he is saide to be *quingies exactus*, and then is outlawed. *Crompton Iurisd. fol. 188.* and this *M. Mamwood* also setteth downe for the law of the forest. *parte .i. of his forest lawes pag. 71.* See the new booke of *Entries, verbo Exigent.*

*Exigenter* (*Exigendarius*) anno 18. H. 6. ca. 9. is an officer of the court of common plees, of whom there be foure in number: They make all *Exigents* and proclamations in all actions, where procces of outlawrie doth lie, and writs of *superfedas*, as well

well as the protonotaries, vpon such exigents, as were made in their offices.

*Ex mero motu*, are words formally vsed in any charter of the Prince, whereby he signifieth, that he doth that which is cōtained in the charter of his owne will and motion, without petition or suggestion made by any other. And the effect of these words are to barre al exceptions, that might be taken vnto the instrument wherein they be contained, by alledging that the Prince in passing that charter, was abused by any false suggestion: *Kitchin fol. 151.*

*Exoneracione secta*, is a writ that lyeth for the kings ward, to be disburdened of all suite, &c. to the Countie, Hundred, Lect, or court Baron, during the time of his wardship. *Fitz. nat. br. fol. 158.*

*Ex parte latis*, is a writ that lyeth for a Bayliffe or Receiuer, that hauing Auditours assigned to heare his accompt, cannot obtaine of them reasonable allowance, but is cast into prison by them. *Regist. fol. 137. Fitzh. nat. br. fol. 129.* The maner in this case is, to take this writ out of the Chauncerie directed to the Shyreue, to take foure mainperuours to bring his bodie before the Barons of the Echequer at a day certaine, & to warn the Lord

to appeare at that time: Newe Termes of the lawe. *verb. Accompt.*

*Expectant*, is vsed in the commonlawe with this word (*fee*) and thus vsed, it is opposite to Fee-simple. For example, lands are giuen to a man and his wife in franke mariage, to haue and to hold to them and their heires. In this case they haue Fee simple. But if it be giuen to them and the heires of their body, &c. they haue taylor and fee expectant. *Kitchin fol. 153. Mathias de afflictis* vseth the Adiectiue (*expectativa*) substantiuely in the same signification. *Descif. 292. num. 2. pag. 412.*

*Explees*. See *Espleese*.

*Expeditate* (*expeditare*) is a word vsuall in the Forest, signifying to cut out the balles of the great dogges feet, for the preservation of the Kings game. Euerie one that keepeth any great dogges not expeditated, forfeiteth to the king 3. shillings 4. pence. *Crompt. iurisd. fol. 152. M. Manwood* vseth the same word, *parte prim.* of his Forest lawes, *pag. 205. and pag. 212.* he setteth downe the maner of expeditating dogges heretofore, *viz. Quod tres ortelli abscindantur sine pellosa de pede anteriori.* i. that the three claws of the forefoot on the right side, shall be cut off by the skinne, whereunto he also



addeth out of the same ordinance, called the Assise of the Forest, that the same maner of expeditating of dogges, shall be still vsed and kept, and none other. *Quere* whence it groweth, that *M. Crompton* and hee differ: the one saying, that the ball of the foote it cut out, the other that the three foreclawes are pared off by the skinne.

*Expensis militum levandis*, is a writ directed to the shyreue, for levying the allowance for Knights of the Parliament. *Register original. fol. 191. b.*

*Expensis militum non levandis ab hominibus de antiquo dominio, nec à natis*, is a writ whereby to prohibite the Shyreue from levying any allowance for the Knights of the Shire, vpon those that hold in auncient demesne, &c. *Regist. orig. fol. 261. b.*

*Extend (extendere)* commeth of the French (*estendre. i. dilatare, dispendere, distendere*) and signifieth in our common lawe, to valew the lands or tenements of one bound by statute, &c. that hath forfeited his bond, to such an indifferent rate, as by the yearely rent the obligour may in time be paid his debt. The course and circumstances of this see in *Fitzh. nat. br. fol. 131. Brief d'execution sur statut Merchant.*

*Extendis facias*, is a writ ordi-

narily called a writ of extent, whereby the valew of lands, &c. is commaunded to be made and leaved in divers cases, which see in the table of the *Register original.*

*Extent (extenta)* hath two significations, sometime signifying a writ or commission to the shyreue for the valuing of lands or tenements. *Register iudiciall* in the Table of the booke: sometime the act of the Shyreue or other Commissioner, vpon this writ. *Brooke titulo. Extent. fol. 313.*

*Extinguishment*, in our common law, signifieth an effect of consolidation. For example, if a man haue due vnto him a yearely rent out of any lands, and afterward purchase the same lands, now both the property and rent are consolidated, or vnited in one possessour, and therefore the rent is said to be extinguished. In like maner it is, where a man hath a lease for yeares, and afterwards buyeth the property: this is a consolidation of the property and the fruites, and is an extinguishment of the lease. See the terms of lawe.

*Extirpatione*, is a writ Iudiciall, that lyeth against him, who after a verdict found against him for land, &c. doth maliciously ouerthrow any house vpon it, &c. and it is two-fold, one *ante iudicium*,

*cium*, the other *post iudicium*: Register *iudiciall* fol. 13. 56. 58.

Extortion (*Extortio*) signifieth in our common law, an vnlawfull or violent wringing of mony or mony worth from any man. For example, if any officer by terrifying any the kings subiects in his office, take more then his ordinary duties, he committeth, and is inditeable of extortion: To this (by *M. Wests* iudgment) may be referred the exaction of vnlawfull vsurie, winning by vnlawfull games, and (in one word) all taking of more then is due, by colour or pretence of right; as excessive tolle in millners, excessive prices of ale, bread, victuals, wares, &c. *West* parte. 2. *Symbol. titulo. Indictments* sect. 65. *M. Mannood* saith, that extortion is *Colore officij*, and not *virtute officij*. parte. 1. of his forest lawes, pag. 216. *M. Crompton* in his Iustice of peace fol. 8. hath these words in effect: wrong done by any man is properly a trespass: but excessive wrong done by any is called extortion: and this is most properly in officers, as Shyreuees, Maiors, Baylives, Escheatours, and other officers whatsoeuer, that by colour of their office worke great oppression, and excessive wrong vnto the Kings subiects, in taking excessive rewarde, or fees, for the execution of their

office. Great diuersity of cases touching extortion, you may see in *Cromptons* Iustice of peace. fol. 48. b. & 49. & 50. See the difference betweene *colore officij*, & *virtute vel ratione officij*. *Plowd. casu. Dives.* fol. 64. a. This word is vsed in the same signification in Italy also. For *Cavalcanus de brachio regio*, parte 5. num. 21. thus describeth it. *Extortio dicitur fieri, quando Iudex cogit aliquid sibi dari quod non est debitum, vel quod est ultra debitum: vel ante tempus petit id, quod post administratam iustitiam debetur.*

*Extreats.* See *Estreats*.

*Eyre.* See *Eire*.

## F

**F**aculty, (*facultas*) as it is restrained from the original and actine signification, to a particular vnderstanding in lawe, is vsed for a priuiledge, or especiall power graunted vnto a man by fauour, indulgence, and dispensation, to do that which by the common lawe he cannot doe: as to eate flesh vpon daies prohibited, to marry without bans first aske d, to hold two or more ecclesiasticall livings, the sonne to succede the father in a benefice, and such like. And for the graunting of these, there is an especiall officer vnder the Archbishop of *Canterbury*, called (*Magister ad facultates*) the Master of the faculties.



*Fag.* anno 4. Ed. 4. cap. 1.

*Faint and false action*, seeme to be *Synonima* in *Litleton. fol. 144.* For (*faint*) in the French tongue signifieth as much as (*fained*) in English.

*Faine pleader* (*falsa placitatio*) commeth of the French (*feint*) a participle of the verbe (*femdre. i. simulare, fingere*) and (*ple-dor. i. placitare.*) It signifieth with vs, a false covenous, or collusory maner of pleading, to the deceit of a third partie. *anno 34. & 35. H. 8. cap. 24.*

*Faire, alias, Feire, (feria)* com-meth of the French (*foire*) and signifieth with vs, as much as (*Nundina*) with the Civilians: that is a solemne or greater sort of market, granted to any towne by priuiledge, for the more speedie and commodious prouision of such things, as the subiect needeth, or the vtterance of such things, as we abound in, aboue our owne vses and occasions: both our English and the French word seeme to come of (*Feria*) because it is alwaies incident to the priuiledge of a Faire, that a man may not be arrested or molested in it for any other debt, then first was contracted in the same, or at least was promised to be payed there. *an. 17. Ed. 4. cap. 2. & anno 1. R. 3. cap. 6.*

*Faire pleading*, see *Beau pleader.*

*Faitours*, seemeth to be a French word antiquated, or something traduced. For the moderne French word is (*faiscur. i. factor*) It is vsed in the statute *anno 7. R. 2. cap. 5.* And in the euill part, signifying a bad doer. Or it may not improbably be interpreted an idle liuer, taken from (*faitardise*) which signifieth a kind of numme or sleepey disease, proceeding of too much sluggishnesse, which the Latines call (*veternus.*) For in the said statute it seemeth to be a Synonymon to Vagabound.

*Falke land, alias, Folke land.* See *Copi-hold* and *Free-hold.*

*False imprisonment, (falsum imprisonmentum)* is a trespassse committed against a man, by imprisoning him without lawefull cause: it is also vsed for the writ which is brought vpon this trespassse. *Fitz. nat. br. fol. 86. K. & 88. P. v. Broke h. 1.* See the new booke of Entries. verbo *False imprisonment.*

*Falso iudicio*, is a writ, that lyeth for false iudgement given in the county, Hundred, Court Baron, or other courts being no court of record, be the plea reall or personall. *Register original fol. 15: Fitzh. nat. br. fol. 17.* See the new booke of Entries. verbo *False iudgement.*

*False prophecies.* See *Prophecies.*

*Falso retorno breuium.* is a writ lying

lying against the Syrecue, for false returning of writs. *Register indic. fo. 43. b.*

*Falsifie*, seemeth to signifie as much, as to proue a thing to be false. *Perkins Dower. 383. 384. 385.*

*Farding*, or farthing of golde. seemeth to be a coine vsed in auncient times, containing in valew the fourth part of a noble. *viz.* twenty pence siluer, and in weight the sixth part of an ounce of gould, that is, of fiue shillings in siluer, which is threepence and something more. This word is is found *anno 9. H. 5. stat. 2. ca. 7.* thus: Item that the king doe to be ordained good and iust weight, of the noble, halfe noble, and farthing of gould, with the rates necessary to the same, for euery city, &c. by which place it plainly appeareth, to haue bene a coine, as well as the noble and halfe noble.

*Farding deale* alias *Farundell* of land (*Quadrantata terra*) signifieth the fourth part of an acre. *Crompt. Iurisd. fol. 220. Quadrantata terra.* is read in the register *orig. fol. 1. b.* where you haue also *Denariata & obolata, solidata, & librata terra*, which by probabilitie must rise in proportion of quantitie from the farding deale, as an halfe peny, peny, shilling, or pound rise in valew and estimation: then must *obolata* be halfe

an acre, *denariata* the acre, *solidata* twelue acres, & *librata* twelue score acres, and yet I find (*viginti libratas terra vel redditus. Regist. original. fol. 94. a & fol. 248. b.* Whereby it seemeth, that *librata terra*, is so much as yeeldeth twenty shillings *per annum*, and *centum soliditas terrarum tementorum & reddituum. fol. 249. a.* And in *Fitz. nat. br. fol. 87. F. I* find these words: *viginti libratas terra vel redditus*, which argueth it to be so much land as twenty shillings *per annum*. See *Furlong.*

*Fate* or *Fat*: is a great wooden vessell, which among brewers in *London*, is ordinarily vsed at this day, to measure mault by, containing a quarter, which they haue for expedition in measuring. This word is read *anno 1. H. 5. cap. 10. & anno 11. H. 6. cap. 8.*

*Fealtie* (*fidelitas*) commeth of the French (*feaultie. i. fides*) and signifieth in our common lawe, an oath taken at the admittance of euery tenant, to be true to the Lord, of whom he holdeth his land. And he that holdeth land by this onely oath of fealty, holdeth in the freest maner, that any man in *England* vnder the king may hold: because all with vs that haue fee, hold (*per fidem & fiduciam*) that is, by fealtie at the least. *Smith de Repub. Anglor. li. 3.*



cap. 8. for, *fidelitas est de substantia feudi*, as Duarenus saith *de feud. cap. 2. num. 4.* and Mathaus de *afflictis decif. 320. num. 4. pag. 465.* saith, that *fidelitas est substantiale feudi, non servitium*. The particulars of this oath, as it is vsed among the feudists, you may reade well expressed by Zasius in his *Tractate de feudis. part. 7. num. 15. & 16.* which is woorth the comparing with the vsuall oath taken here in our part of Britannie. This fealtie is also vsed in other nations, as the Lombards and Burgundians. Casfanaus de *consuet. Burgund. pag. 419. & 420.* And indeed the very first creation of this tenure, as it grew from the loue of the lord toward his followers, so did it bind the tenent to fidelitie, as appeareth by the whole course of the feods. And the breach thereof is losse of the fee. Duarenus in *Commentariis feudorum cap. 14. num. 11. & Wesenbecius in tract. de feudis cap. 15. num. 4 & seqq.* Antonius Contius in *methodo feudorum cap. Quibus modis feudum amittitur.* Hosomian in his *Commentaries (De verbis feudilibus)* sheweth a double fealtie: one generall, to be performed by euery subiect to his prince: the other speciall, required only of such, as in respect of their fee are tyed by this oath toward their landlords: both we may

reade of in the grand Customary of Normandy, being of course performed to the Duke, by all resident within the Dutchie. The effect of the words turned into latine by the Interpreter, is this: *Fidelitatem autem tenentur omnes residentes in Provincia Duci facere & servare: Vnde tenemur soci innoctuos in omnibus & fideles exhibere, nec aliquid ipsum incommodi procurare: nec eius inimicis prabere contra ipsum consilium vel iuramen: & qui ex hoc inventi fuerint ex causa manifesta, notabiles & traditores Principis reputantur. Et omnes eorum possessiones perpetue Principi remanebunt, si super hoc convicti fuerint vel damnati: Omnes enim in Normania tenentur Principi fidelitatem observare. Vnde nullus homagium vel fidelitatem alicuius potest recipere, nisi salva Principis fidelitate. Quod etiam est in eorum receptione specialiter exprimendum. Inter Dominos autem alios & homines fides saliter debet observari, quod neuter in personam alterius personalem violentiam, seu percussionis iniectionem cum violentia, debet irrogari. Si quis enim eorum ex hoc fuerit accusatus in curia & convictus, feudum omne debet amittere &c.* This fealty speciall, is with vs performed either by free men or by villeines. The forme of both see anno 14. Ed. 1. stat. 2. in these words: when a freeman shall doe fealty to his lord,

lord, he shall hould his right hand vpon a booke, and shal say thus: Heare you my lord R. that I. P. shalbe to you both faithfull and true, and shall owe my fealty to you for the land that I hould of you at the terms assigned: So help me god and all his saints. When a villaine shall doe fealty vnto his lord, he shall hould his right hand ouer the booke, and shall say thus: Heare you my lord. A. that I. B. from this day forth vnto you shalbe true and faithfull, and shall owe you fealty for the land that I hould of you in villenage, and shalbe iustified by you in body and goods: So helpe me god & all his Saints. See the Register originall. fol. 302. a.

Fee (*Feodum*, alias *Feudum*) cometh of the French) *Fief*. i. *prædium beneficium*, vel *res clientelaris*) and is vsed in our common lawe, for all those lands which we hold by perpetuall right: as *Hotoman* well noteth *verbo Feodum. de verbis feudalis*: our ancient lawyers either not obseruing whence the word grew, or at the least not sufficiently expressing their knowledge, what it signified among them, from whome they tooke it, *Feudum* whence the word (*Fief*) or fee cometh, signifieth in the German language (*beneficium cuius nomine offeruntur quædam gratie testificande*

*causa debentur*, *Hotoman disput. ca. 1.* And by this name 'goe all lands & tenements, that are held by any acknowledgement of any superioritie to a higher Lord. They that write of this subiect, doe diuide all lands and tenements, wherein a man hath a perpetuall estate to him and his heires, &c, into *Allodium* & *Feudum*. *Allodium* is defined to be euerie mans owne land, &c. which he possesseth meere in his owne right, without acknowledgement of any seruice, or payment of any rent vnto any other, and this is a propertie in the highest degree, and of some it is called (*allodium ab a privata particula, & laudum vel laudatio, ut sit prædium cuius nullus author est nisi deus. Est enim laudare, vel Nouo teste, nominare. Quod & Budeus docuit ad Modestinum. l. Herennius 63. π. de here. instit. Præter. verbo. Allodium. Hotoman in verb. feuda. Feudum* is that, which we hold by the benefite of another, and in the name whereof we owe seruice, or pay rent, or both, to a superior lord. And all our land here in England (the Crowne land which is in the kings owne hands in the right of his crowne, excepted) is in the nature of *Feudum* or fee, for though many a man hath land by descent from his Ancestors, and many another hath



dearely bought land for his money, yet is the land of such nature, that it cannot come to any, either by discent or purchase, but with the burthē that was laid vpon him, who had novel fee, or first of all receiued it as a benefite from his Lord, to him and to all such, to whome it might discent, or any way be conueied from him. So that if we will reckon with our host (as the proverbe is) there is no man here, that hath *directum dominium*. i. the very propertie or *demiene* in in any land, but the prince in the right of his crowne. *Camd. Britan. pag. 93.* for though he that hath fee, hath *ius perpetuum*, & *utile dominium*: yet he oweth a dutie for it: & therefore is it not simply his owne. Which thing I take those words, that we vse for the expressing of our deepest right in any lands or tenements, to import: for he that can say most for his estate, saith thus: I am seised of this or that land or tenement in my demaine, as of fee. *Seisitus inde in dominico meo ut de feudo*, and that is as much, as if he said, it is my demaine or proper land after a sort: because it is to me and mine heires for ever: yet not simply mine, because I hold it in the nature of a benefite from another. yet the statute *anno 37. H. 8. ca. 16.* vseth these words of lands inyested in the crowne: but it proceedeth

from the ignorance of the nature of this word (fee) for fee cannot be without fealty sworne to a superiour, as you may reade partly in the word. (*Fealitie*) but more at large in those that write *de feudis*: and namely *Horoman*, both in his commentaries and disputations. And no man may graunt, that our king or Crowne oweth fealty to any superior but God onely. Yet it may be said, that land, &c. with vs is termed fee in two respects; one, as it belongeth to vs and our heires for ever: and so may the Crowne land be called Fee: the other, as it holdeth of another, which is and must be farre from our Crowne. *Britton ca. 32.* defineth fee to this effect, Fee is a right consilting in the person of the true heire, or of some other, that by iust title hath, purchased it. *Fleta* saith that *Feudum est quod quis tenet ex quacunq; causa sibi & heredibus suis, sine sit tenementum, sine redditus, qui non proveniunt ex camera, & alio modo dicitur feudum, sicut eius qui seoffat, & quod quis tenet ab alio, sicut dicitur: talis tenet de tali tot feuda per servitium militare. li. 5. ca. 5. s. Feudum autem.* And all that write *de feudis*, doe hold that (*Feudatarius*) hath not an entire propertie in his fee: Nay, it is held by right learned men, that these fees were at the first invention or creation of

of them, either all or some of them temporarie, and not perpetuall and hereditarie. *Iacobutius de Franchis in praeludio feud. ca. 2. nu. 133.* The diuisions of (fee) in diuers respects are many, and those though little knowne to vs in England, yet better worthie to be known, then we commonly thinke. But for our present purpose, it is sufficient to diuide Fee into two sorts: Fee absolute, otherwise called simple: and Fee conditionall, otherwise termed fee tayle: Fee simple (*Fendum simplex*) is that, whereof we are seised in these generall words (to vs and our heires for ever.) Fee tayle (*Fendum talliatum*) is that, whereof we are seized to vs and our heires with limitation, that is, the heires of our body, &c. And fee tayle is either generall or speciall. Generall is, where land is giuen to a man and the heires of his body. The reason whereof is giuen by *Littleton ca. 2. li. 1.* because a man seised of land by such a gift, if he marie one or more wiues, and haue no issue by them, and at the length marie another, by whome he hath issue, this issue shall inherit the land: Fee tayle speciall is that, where a man and his wife be seised of lands to them, and the heires of their two bodies. The reason is likewise giuen by *Littleton* in the same place, because

in this case, the wife dying without issue, and he marrying another, by whome he hath issue, this issue, cannot inherit the land, being specially giuen to such heires, &c. this Fee tayle hath the originall, from the statute of *Westm. 2. cap. 1.* which was made anno 13 Ed. 1. yet see *Bracton. li. 2. ca. 5. nu. 3. his verbis. Item quedam absoluta & larga, & quedam stricta & coarctata, sicut certis heredibus* to whome adde *Plowden, casu Willon. fo. 235. a. b. & seqq.* for before that statute, all land giuen to a man and his heires, either generall or speciall, was accompted in the nature of fee: and therefore held to be so firmly in him to whome it was giuen: that, any limitation notwithstanding, he might alienate and sell it at his pleasure: much like that which the Civilians call (*Nudum preceptum*) binding rather by way of counsell and aduice, then compulsion or restraint: And this thing seeming vnreasonable to the wisdom of our realme, because so a man meaning well to this or that posterity of himselfe or his freinds, might be forthwith deceiued of his intention, the said statute was made for redresse of this inconvenience, whereby it is ordained, that if a man giue lands in fee, limiting the heires to whome it shall descend, with a reuer-



on to himselfe of his heires for default, &c. that the forme and true meaning of his gift, shalbe obserued. Wherefore in what conscience our lawyers haue invented meanes, so easily to cut off this forme of gift, it is to be considered. He that hath see then, holdeth of another by some dutie or other, which is called seruice, and of this seruice and the diuersitie thereof, See *Chivalrie* and *Seruice*. He that will learne from what fountaine these feuds or fees did first spring let him read *Antonius Contius* his first chapter *de methodo feudorum*, where he shal receiue great light for his guide into so obscure a dungeon. See *Liege*. This word, (*Fee*) is sometime vsed with vs, for the compas or circuit of a Lordship or maner. *Bracton. lib. 2. cap. 5.* in these words: *In eadem villa & de eodem feodo*. Thirdly it is vsed for a perpetuall right intorporeall: as to haue the keeping of prisons in fee. *old. nat. br. fol. 41.* Foster in fee *cod. fol. 6.* Rent granted in fee. *cod. fo. 8.* Shyreue in fee. *ann. 28. Ed. pri. stat. 3. ca. 8.* Lastly fee signifieth a reward or ordinarie dutie, that a man hath giuen him for the execution of his office, or the performance of his industrie in his art or science: as the lawyer or the phisician is said to haue his fee, when he hath the considera-

tion of his paines taken, the one with his client, the other with his patient.

*Fee expectant*, is by the feudists termed *feudum expectatum*, or *expectatima*, substantiuely vsed, *Mathaeus de Afflictis de off. 292. nu. 2. pag. 417.* See *expectant*.

*Fee ferm* (*feudi firma*) is a compound of *Fee*. whereof see (*Fee*) and (*ferm. i. colonia, villa, praedium rusticum*, of (*Fermè*) comrith *Fermier du prince. i. manceps, redemptor publicorum vectigalium, Publicanus.*) *Fee ferm* signifieth in our common lawe, land held of another in fee, that is in perpetuities to himselfe and his heires; for so much yearely rent, as it is reasonably worth, more or lesse, so it be the fourth part of the worth, *old tenures*, See exposition of the statute of *Glocester anno 6. Ed. pri.* without homage, fealtie or other seruices, other then be especially comprised in the feoffment, but by *Fitzh.* it seemeth that the third part of the value may be appointed for the rent, or the finding of a chaplaine to sing diuine seruice, &c. *nat. br. fol. 210. C.* And the nature of it is this, that if the rent be behind and unpaid for the space of two yeares, then the feoffour or his heires haue action to recover the lands as their demesnes. *Britton. ca. 66. nu. 4.* but obserue out of *West. symbol. parte 1. lib. 2. sect. 463.* that

that the feofment may containe ſeruices and ſuite of court, as well as rent: and the author of the new terms of law, ſaith, that Feeferm oweth fealtie, though not expreſſed in the feofment, for that fealtie belongeth to all kind of tenures: This is neere the nature of that, which among the Civilians is called (*ager veſtigalis, qui in perpetuum licetur. i. hac lege ut quam diu pro eo veſtigal pendatur, tam diu neq; iſis qui conduxerunt, neq; iſis qui in locum eorum ſucceſſerunt, auferri eum liceat. l. 1. π. ſi ager veſtigalis, &c.*)

Feede (*Feida alius Faida*) ſignifieth in the German tounge *Gueram. i. (capitales inimicitias vel bellum, Hotoman diſputat: de feudis ca. 2. B. Fœminæ dicitur faidam non facere. gloſſ: in s. ult. De lege Conradi lib. 2. de feudis, by reaſon that women by the law, are not ſubiect to warfare, to battell or proclamation made for that cauſe. Skene de verbo: ſignif. verbo Affidatio. M. Lamberd in his explanation of Saxon words writeth it (Feeth) and ſaith likewiſe, that it ſignifieth capitales inimicitias, and alſo that (Feud) uſed now in Scotland and the north parts of England, is the ſame, and that is, a combination of kindred to reuenge the death of any of their blood againſt the killer and all his race.*

*Felonie (Felonía)* ſeemeth to

come of the french (*Felonnie. i. impetuofitas, atrocitas, immiſericordia*) *Felonía* (ſaith *Hotoman de verbis feudilibus*) *non præſciſe contumaciam vaſalli in dominum, huiusue in vaſallum perfidiam ſignificat, verum quoduis capitale facinus.* And againe. *Felonía* *Gothis & Longobardis dicitur quod Germanis hodie Schelmarey, latinis Scelus. S. Ed. Cooke ſaith thus. Ideo dicta eſt felonía qui fieri debet ſelloo animo. li. 4. fo. 124. b. Hoſtienſis in ſua ſumma titulo, De feudis, and others ſpeak of this to this effect. Felonía, alias Fallonía eſt culpa vel iniuria, propter quam vaſallus amittit feudum. Sed hec reſpicit dominum feudi. Eſt & alia fallonía que non reſpicit dominum, ſc. quando vaſallus interficit fratrem vel filium ſuum, vel filium fratris, vel aliud crimen commiſit quod parricidii appellatione continetur. & plures alie fallonía tam reſpicientes dominum, quam alios propter quas feudum amittitur ibi notantur.*

We account any offence felonie that is in degree next vnto petit treaſon, and compriseth diuers particulars vnder it, as murder, theſt, killing of a mans ſelfe, *Sodometrie*, rape, wilfull burning of houſes, and diuers ſuch like, which are to be gathered eſpecially our of ſtatutes, whereby many offences are dayly made felonie, that before were not. Felonie is diſcerned from lighter



ter offences by this, that the punishment thereof is death. How be it this is not perpetuall. For *petit larcenie* (which is the stealing of any thing vnder the valew of twelue pence) is felony, as appeareth by *Broke titulo Coron. num. 2.* his reason is, because the indictment against such a one must runne with these words, (*felonice cepit*) and yet is this not punished by death though it be losse of goods. Any other exception I know not, but that a man may call that *felony*, which is vnder petit treason, and punished by death. And of this there be two sorts: one lighter, that for the first time may be recueued by cleargie, another, that may not. And these you must also learne to know by the statutes: for Cleargie is allowed, where it is not expressly taken away. Of these maters reade *Stawnfords* first booke of his *pl. cor.* from the end of the second Chapter, to the 39. and the statutes whereby many offences be made felonie, since he writ that learned booke. See also *Lamberds Iustice of peace, lib. 2. cap. 7.* in a Table drawne for the purpose. As also *lib. 4. cap. 4. pag. 404.* and *Crompton* in his *iustice of peace. fol. 32. &c.* Felonie is also punished by losse of lands not entayled, and goods or chateles, as well real as personall: and

yet the statutes make difference in some cases touching lands, as appeareth by the statute, *anno 37 H. 8. cap. 6.* Felonie ordinarily worketh corruption of blood, though not, where a statute ordaineth an offence to be felonie, and yet withall saith, that it shall not worke corruption of blood. As *anno 39. Eliz. cap. 17.* How many wayes felonie is committed, see *Cromptons Iustice of peace. pag. 32. &c.*

*Feyre.* See *Fayre.*

*Felo de se,* is he that committeth felonie by murthering himselfe. See *Cromptons Iustice of peace. fol. 28.* and *Lamberds Eirenarcha. lib. 2. cap. 7. pag. 247.*

*Fencemoneeth,* is a moneth, wherein it is vnlawful to hunt in the Forest, because in that moneth the female Deere do faune: and this moneth beginneth 15. dayes before Midsomer, and endeth 15. dayes after. So that to this moneth there be 31. daies. See *Mamrood parte prim.* of his Forest lawes. *pag. 86.* but more at large *parte secunda. cap. 13. per totum.* It is also called the defence moneth, that is, the forbidden moneth, and the word defence is vsed in like sort. *Wesh. 2. cap. 47. anno 13. Ed. 1.* in these words: All waters where Salmons be taken, shall be in defence for taking of Salmons from the Natiuitie, &c.

*Fennycricke*, or rather *Fenegræke*, (*Fœnum Gracum*) is a medicinal plant or herbe, so called, because it groweth like hey, and cometh out of Greece. Of this you may reade more in *Gerwards herball. lib. 2. cap. 483.* The seede therof is reckoned among drugs, that are to be garbled. *an. 1. Iacob. cap. 19.*

*Feofment* (*feoffamentum*) by the opinion of *Sir Thomas Smith de Repub. Anglor. lib. 3. cap. 8.* and *M. West part. prim. symbol. lib. 2. sect. 280.* is descended from the Gottish word (*feudum*) which you haue interpreted in (*fee*) and signifieth (*donationem feudi*) But (as *M. West* also addeth) it signifieth in our common lawe, any gift or graunt of any honors, castels, maners, mesuages, lands, or other corporall and immouable things of like nature, vnto another in fee simple, that is to him and his heires for euer, by the deliuerie of seisin and possession of the thing giuen, whether the gift be made by word or writing. And when it is in writing, it is called a deed of feofment, and in euery feofment the giuer is called the Feaffour (*feoffator*), and he that receiueth by vertue thereof, the Feoffee (*feoffarius*) and *Lisleton* saith, that the proper difference betweene a feoffour and a donour is, that the feoffour giueth in fee-simple, the

donour in fee-taile. *lib. 1. cap. 6.*

*Feodarie, aliàs, Feudarie, aliàs, feudatarie, (feudatarius)* is an officer authorized and made by the master of the Court of wards and liuterics, by letters patents vnder the seale of that office. His function is to be present with the Escheater at the finding of any office, and to giue euidence for the king as well concerning the valew, as the tenure, and also to suruey the land of the ward, after the office found, and to rate it. He is also to assigne the kings widowes their dowers and to receiue all the rents of the wards lands, with in his circuit, and to answer them to the Receiuer of the court of wardes and liuterics. This officer is mentioned *anno 32. H. 8. cap. 46.*

*Ferdfare, significat quietantiam eundi in exercitum. Fleta libr. pri. cap. 47.*

*Ferdwit, significat quietantiam murdri in exercitu. Fleta libr. prim. cap. 47.*

*Ferm (firma)* cometh of the French (*Ferme. i. colonia, villa, pradium*), and signifieth with vs, house or land, or both, taken by Indenture of lease, or lease parol. It may likewise not vnaptly be coniectured, that both the French and English word came from the Latine (*firmitas*) for



(*locare ad firmum*) I find sometime to signifie with others, as much as (to set or let to farme) with vs. The reason whereof may be in respect of the sure hould they haue aboue tenents at will. *v. vocabul. vtriusque iuris. verbo Afflictus.* The authour of the new Termes of lawe, deriueth this word from the Saxon (*feormian*) which signifieth to feed or yeeld victuall. For in auncient time the reseruations were as well in victuals as money, which I leaue to the iudgement of the Reader. How many wayes ferme is takē, see *Plowden. casu Wrothesley. fol. 195. a. b.*

*Feudarie. See Feodarie.*

*Fieri facias*, is a writ iudiciall, that lyeth at all times within the yeare and day, for him that hath recouered in an action of debt or dammages, to the Shyreene, to commaund him to leuie the debt or the dammages of his goods, against whome the reco-uerie was had. This writ hath beginning from *Westm. 2. cap. 18. anno 13. Ed. 1.* See *old nat. br. fol. 152.* See great diuersitie thereof in the Table of the *Register iudiciall. verbo. Fieri facias.*

*Fifteenth (Decimaquinta)* is a tribute, or imposition of mony laide vpon euery city, borough, and other towne through the realme, not by the polle, or vpon

this or that man, but in general, vpon the whole city or towne; so called, because it amounteth to one fifteenth parte of that, which the city or towne hath bene valued at of ould. This is now a dayes imposed by parliament: and euery towne through the realme, great or lesse, knoweth what a fifteenth for themselves doth amount vnto, because it is perpetuall: whereas the subsidy, which is raised of euery particular mans lands or goods, must needs be vncertaine, because the estate of euery seuerall man is so ticklish and vncertaine. And in that regard am I driuen to thinke that this fifteenth is a rate aunciently laide vpon euery towne, according to the land or circuit belonging vnto it. whereof *M. Camden* hath many mentions in his *Britannia*. In stead of the rest take a fewe page. 168. of *Wels* in Somersetshire he writeth thus. *Quo tempore, ut testatur censualis Anglie liber, Episcopus ipsum oppidum tenuit, quod pro quinquaginta hidis geldauit:* And pag. 171. of *Bathe.* *Geldabat pro viginti hidis, quando Schira geldabat.* thirdly, pa. 181. of ould *Sarisbury* thus: *pro quinquaginta hidis geldabat.* and these rates were taken out of Domes day in the Eschequer. so that this seemed in ould time, to be a yearely tribute in certainty, whereas now, though the rate be certaine,

certaine, yet it is not leuied but by Parliament. See *Taske*, see *Quinſie me*.

*Filazer* (*Filazarius*) commeth of the french (*Filace. i. finum, filacium*) it is an officer in the common ples, whereof there be 14. in number: they make out all originall proces, as well reall as personall and mixt: and in actions meerely personall, where the defendants be returned or sommoned, there goeth out the distresse infinite vntill apparence. If he be returned *Nihil*, then proces of *Capias infinite*, if the plaintife will, or after the third *Capias*, the plaintife may goe to the Exigenter of the Shire, where his originall is grounded, and haue an Exigent and proclamation made: And also the *Filazer* maketh soorth all writs of viewe in causes, where the view is prayed: he is also allowed to enter the imparlance, or the generall issue in common actions, where apparence is made with him, and also iudgement by confession in any of them before issue be ioyned, and to make out writs of execution thereupon. But although they entered the issue: yet the prototarie must enter the iudgement, if it be after verdict. They also make writs of *Superſedeas*, in case where the defendant appeareth in their offices, after the Ca-

pias awarded.

*Filctale*. See *Sothale*.

*File* (*filacium*) is a threed or wyer, whereon writs, or other exhibits in courts, are fastened for the more safe keeping of them.

*Finders. anno 18. Ed. 3. stat. 1. cap. vincto. anno 14. R. 2. cap. 10.* seeme to be all one with those, which in these dayes we call searchers.

*Fine* (*finis*) commeth of the French (*fin. i. finis*) and hath diuers applications in our commo lawe: sometime being vsed for a formall or ceremonious conueyance of lands or tenements, or (as *West* saith, *titulo Fines. sect. 25.*) of any thing inheritable, being in esse tempore finis, to the end to cut off all controuersies. *West parte 2. symb. sect. 1.* defineth a fine in this signification: couenants made before Iustices, and entred of Record. And out of *Glanvile* thus *lib. 8. cap. 1. Finis est amicabile composicio & finalis concordia, ex consensu & licentia Domini Regis, vel eius Iusticiariorum.* And *lib. 9. cap. 3. Talis concordia finalis dicitur, eo quod finem imponit negotio, adeo ut neutra pars litigantium ab eo de cetero poterit recedere.* And out of *Bracton, lib. 5. tract. 5. cap. 28. num. 7.* thus: *Finis ideo dicitur finalis concordia, quia imponit finem litibus, & est exceptio preemptoria.* The authour of



the new termes of lawe, defineth it to be a finall agreement had betweene persons concerning any land or rent, or other thing, whereof any suite or writ is betweene them hanging in any court. See the new booke of Entries, *verbo Fines*. This fine is of so high a nature, that *Bracton lib. 3. cap. 7. num. 3.* hath these words of it. *Item immediate pertinet ad Regem querela finis facta in curia Domini Regis, & non observate. Et est ratio, quia nemo potest finem interpretari nisi ipse Rex, in cuius curia fines fiunt.* See also anno 27. Ed. prim. *stat. prim. cap. prim.* The Civilians: would call this solemne contract *transactioem iudicialem de re immobili*, because it hath all the properties of a transaction, if it be considered in his originall use. *v. Wesemb. parat. titulo de transact.* For it appeareth by the writers of the common lawe aboue named, that it is nothing but a composition or concord acknowledged and recorded before a competent Iudge, touching some hereditament or thing immoveable, that earst was in controuersie betweene those, that be parties to the same concord: and that for the better credit of the transaction, being by imputation made in the presence of the king, because it is leuied in his Court: and therefore doth it

bind women couert being parties, and others whom ordinarily the lawe disableth to transact, onely for this reason, that all presumption of deceit or euill meaning is excluded, where the king is priuy to the acte. But discourse of wit and reason, hath in time wrought other uses of this concord, which in the beginning was but one: as namely, to secure the title that any man hath in his possession against all men: to cut off intayles, and with more certaintie to passe the interest or the title of any land or tenement, though not controuerted, to whome we thinke good, either for yeares or in fee. In so much that the passing of a fine, in most cases, now is it but *mera fictio iuris*, alluding to the use for the which it was invented, and supposing a doubt or controuersie, where in truth none is: and so not onely to worke a present prescription against the parties to the concord or fine, and their heires, but within five yeares against all others, not expressly excepted (if it be leuied vpon good consideration, and without Couin) as women couert, persons vnder 21. yeares, or prisoners, or such as be out of the realme at the time when it was acknowledged.

ledged. Touching this mater, see the statutes. *anno 1. Rich. 3. cap. 7 anno 4. H. 7. cap. 24. anno 32. H. 8. cap. 36. & anno 31. Eliz. 1b. ca. 2.* This fine hath in it five essentiall parts: the originall writ taken out against the conizour: the kings licence giuing the parties libertie to accord, for the which he hath a fine called the Kings filuer, being accompted a part of the Crownes reueneue. Thirdly, the concord it selfe, which thus beginneth: *Et est concordia talis, &c.* Fourthly, the note of the fine, which is an abstract of the original concord, and beginneth in this maner: *Sc. Inter R. querentem. & S. & E. uxorem eius, deforciantes, &c.* Fifthly, the foot of the fine, which beginneth thus: *Hec est finalis concordia facta in Curia domini Regis, apud Westm. à die Pascha in quindecim dies, anno &c.* So as the foote of the fine includeth all, containing the day, yeare, and place, and before what Iustice the concord was made. *Coke vo. 6. casu Teye. fol. 38. & 39.* This fine is either single or double: A single fine, is that by which nothing is graunted or rendred backe againe by the Cognizeese to the Cognizours, or any of them. A double fine containeth a graunt and render backe againe, either of some rent, common, or other thing, out of the land, or of the land it

selfe, to all or some of the Cognizours, for some estate, limiting thereby many times Remainders to straungers, which be not named in the writ of couenant. *West ubi supra, sect. 21.* Againe, a fine is of the effect, deuided into a fine executed, and a fine executory. A fine executed is such a fine, as of his owne force giueth a present possession (at the least in law) vnto the Cognizee, so that he needeth no writ of (*Habere facias seisinam*) for the execution of the same, but may enter; of which sort is a fine (*sur cognizance de droit come ceo que il ad de son done*) that is vpon acknowledgement, that the thing mentioned in the concord be *ius ipsius cognizati, ut illa qua idem habet de dono Cognitoris.* *West. sect. 51. K.* and the reason of this seemeth to be, because this fine, passeth by way of release of that thing, which the cognizee hath already (at the least by supposition) by vertue of a former gift of the cognizour. *Cokes reports li. 3. the case of fines fo. 89. b.* which is, in very deed, the surest fine of all. *Fines executorie* be such, as of their owne force doe not execute the possession in the Cognizeese, as *fines sur cognizance de droit tantum. fines sur done*, graunt, release, confirmation, or render. For if such fines be not leuiued, or such render made vnto



them, that be in possession at the time of the fines leuied, the cognizees must needs shew writs of (*Hubero facis seignam*) according to their seuerall cases, for the obtaining of their possessions, except at the leuying of such executory fines, the parties, vnto whom the estate is by them limited, be in possession of the lands passed thereby: for in this case such fines doe inure by way of extinguishment of right, not altering the estate or possession of the Cognizee, but perchance bettering it. *West. ubi supra. sect. 20.*

Touching the forme of these fines, it is to be considered vpon what writ or action the concord is to be made, and that is, most commonly, vpon a writ of covenant: and then first there must passe a paire of indentures betweene the Cognizour and Cognizee, whereby the Cognizour covenanteth with the cognizee, to passe a fine vnto him, of such or such things by a day set down. And these indentures, as they are first in this proceeding, so are they saide to lead the fine; vpon this covenant, the writ of covenant is brought by the Cognizee against the cognizour, who therevpon yieldeth to passe the fine before the Iudge, and so the acknowledgement being recorded, the cognizour and his heires are presently concluded,

and all straungers not excepted, after five yeares once pasted. If the writ wherevpon the fine is grounded, be not a writ of covenant, but of *warantia charte*, or a writ of right, or a writ of *mesn*, or a writ of custome and seruices (for of all these fines may also be founded. *West. ubi supra. sect. 23.*) then this forme is observed: the writ is serued vpon the party that is to acknowledge the fine, and then he appearing doth accordingly: See *Dier. fo. 179. nu. 46.*

This word (*fine*) sometime signifieth a summe of money, paid for an Income to lands or tenements let by lease: sometime an amends, pecuniarie punishment, or recompence vpon an offence committed against the king and his lawes, or a Lord of a maner. In which case, a man is said *facere finem de transgressione cum Rege*, &c. *Regist. Ind. fol. 25. a.* and of the diuersty of these fines with other mater worth the learning, see *Cromptons Iustice of peace. fol. 141. b. 143. 144.* and *Lamberds Enenarcha libro. 4. ca. 16. pa. 555.* But in all these diuersties of vses, it hath but one signification; and that is a finall conclusion or ende of differences betweene parties. And in this last sence, wherein it is vsed for the ending and remission of an offence, *Tracton* hath

hath it *li. 2. ca. 15. m. 8.* speaking of a common fine that the Countie payeth to the king, for false iudgemēts or other trespases, which is to be assessed by the Iustices in Eyre before their departure, by the oath of knights and other good men, vpon such as ought to pay it: with whome agreeth the statute *anno. 3. Ed. pri. ca. 18.* There is also a common fine in leetres. See *Kitchin. fo. 13. a. v. common fine.* See *Fleta. l. 1. ca. 48.*

*Fines pro licentia concordandi,* *anno 21. H. 8. c. 1.* See *Fine.*

*Fine force*, seemeth to come of the french adiectiue (*fin*) and the substantiue (*force. i. vis*) The adiectiue (*fin*) signifieth sometime as much as crastie, wile or subtrill, sometime as much as, artificiall, curious, singular, exact, or perfect. as (*Rien - contrefaict fin. i. nihil simulatum aut ad imitationem alterius expressum, potest esse exactum, vel ita absolutum, quin reprehensionem vel offensorem incurrat,* as is set downe in that worke, truly regal, intituled *Castilley d'apen. pa. 115.* so that this (*fine force*) with vs, seemeth to signifie an absolute necessitie or constraint, not avoidable. and in this sence it is vsed, *old. nat. br. fol. 78.* and in the statute *anno. 23. H. 8. ca. 12. in Perkins Dower. fo. 321. and Plowden. fo. 94. Coke. vol. 6. fol. 111. a.*

*Fine adnullando levato de temento quod fuit de antiquo dominico,* is a writ to Iustices, for the disanulling of a fine levied of lands holding in auncient demesne, to the preiudice of the Lord: *Register originall. fol. 15. b.*

*Fine capiendo pro terris, &c.* is a writ lying for one, that vpon conviction by a Iury hauing his lands and goods taken into the kings hand, and his body committed to prison, obtaineth fauour for a summe of money &c. to be remitted his imprisonment, and his lands and goods to be redeliuerd vnto him. *Register. orig. fo. 132. a.*

*Fine levanda de tementis tenitis. Rege in capite. &c.* is a writ directed to the Iustices of the cōmon p'ces, whereby to licence them to admit of a fine for the sale of land holding in capite, *Register. originall. fol. 167. a.*

*Fine non capiendo pro pulchre placitando,* is a writ to inhibit officers of courts, to take fines for faire pleading, *Register originall. fol. 179.* See *Beau p'eder.*

*Fine pro redisseisina capienda &c.* is a writ, that lieth for the release of one laid in prison for a redisseisin, vpon a reasonable fine. *Register. originall. fol. 222.*

*Finarie.* See *Blumarie.*

*Finours of gold and silver,* be those that purifie and part those metals from other conser, by fire



fire and water. *anno. 4 H. 7. ca. 2.* They be also called parters in the same place, sometime de-parters.

*Fireboote*, for the composition looke *Hayboote*. It signifieth allowance or *Estovers* of woods, to maintaine competent fire for the vse of the tenent.

*First fruites* (*primitiæ*) are the profits of every spirituall living for one yeare, giuen in auncient time to the Pope throughout all Cristendome: but by the statute *anno 26. H. 8. cap. 3.* translated to the Prince, for the ordring whereof, there was a court erected, *an. 32. H. 8. ca. 45.* but this court was dissolved. *anno. pri. Mar. sess. 2. ca. 10.* & sithence that time, though those profits be reduced againe to the crowne, by the statute *anno 1. Eliz. ca. 4.* yet was the court neuer restored, but all maters therein wont to be handled, were transferred to the Exchequer. See *Annals.*

*Fishgarthe*, *anno 23. H. 8. ca. 18.*

*Futche*, See *furre*.

*Fitzherberd*, was a famous lawyer in the daies of King Henry the eight, and was chiefe *Iustice of the common plees*, he wrot two worthie bookes, one an abridgement of the common lawes, another intituled *de Natura brevium*.

*Fledrit*, cometh of the Saxon word (*Fled*) that is a fu-

gitive, & wit, which some make but a termination, signifying nothing of it selfe: how be it others say, it signifieth a reprehension, censure, or correction: It signifieth in our auncient lawe, a discharge or freedome from amerccements, when one hauing been an outlawed fugitive cometh to the peace of our Lord the King, of his owne accord. *Rastall, Exposition of words:* or being licenced: *Newe termes of lawe* See *Bloodrit*, and *Childrit*: See *Fletwit*.

*Fleete* (*Fleta*) is a famous prison in London, so called (as it seemeth) of the riuer, vpon the side whereof it standeth, *Camden Britanmia, pag. 317.* Vnto this none are vually committed, but for contempt to the king and his lawes, or vpon absolute commaundemēt of the king, or some of his courts, or lastly vpon debt, when men are vnabie, or vnwilling to satisfie their creditors.

*Flemesait* or rather (*Fleherf-wit*) cometh of the Saxon word (*Flean*) which is a contract of (*Flegen*) that is, to fle away. It signifieth with our lawyers, a libertie or charter, whereby to chalenge the catel or amerccements of your man a fugitive: *Rastall Exposition of words.* See *Bloodrit*. *Fleta* writeth this word two other waies, as (*Flemenesfre-*

*vie* or *Flemesfreithe*, and interpreteth it, *habere catalla fugitivorum*. li. 1. ca. 47.

*Fleta*, is a feigned name of a learned lawyer, that writing a booke of the common lawes of England and other antiquities in the *Fleete*, termed it thereof *Fleta*: He seemeth to have lived in *Ed.* the 2. time and *Edm.* the 3. *idem*, li. 1. ca. 20. §. *qui ceperint*. li. 2. ca. 66. §. *ite in quod nullus*.

*Fletwit*, alias *Fredwit*. *Skene de verborum significatione*. verb. *Melletum*. saith, that (*Flichtwit*) is a libertie to courts, and to take vp the ameracements *pro melletis*. he giueth thereasō because (*Flicht*) is called *Fluing* in french (*Melle*) which sometime is conioyned with hand-strookes: And in some bookes *Placitum de melletis*, is called the moote or plee of beating or striking.

*Flight* See *Finer*.

*Florences*, anno 1. R. 3. ca. 8. a kinde of cloth so called.

*Flotsen* alias (*Flotzam*) is a word proper to the seafe, signifying any goods that by shipwrecke be lost, and he floting or swimming vpon the toppe of the water, which with *Ietson* and *lagon* and *shares* be giuen to the Lord Admirall, by his letters patents. *Ietson* is a thing cast out of the shippe being in daunger of wrecke, and beaten to the shore by the waters, or cast on

the shore by the marriners. *Coke* vol. 6. fo. 106. a. *Lagon* alias *Lagam* vel *Ligan*, is that which lyeth in the bottome of the sea, *Coke* *ibi*. Shares are goods due to more by proportion.

*Foder* (*fodrum*) signifieth in our English tongue, a course kinde of meate for horses and other catell. But among the Feudists, it is vsed for a prerogatiue that the prince hath, to be provided of corn and other meate for his horses by his subiects towards his wars, or other expeditions. *Arnoldus Clapmarus. de arcanis imperii*. lib. 1. ca. 11. And reade *Hotoman de verbis feudalibus*. litera F.

*Folgheres*, or rather *Folgers*, be folowers, if we interpret the word according to the true signification: *Bracton* saith it signifieth, *eos qui alii deserviunt*. lib. 3. tract. 2. cap. 10.

*Folkmoote*, is a Saxon word, compounded of *Folk*. i. *populus* & *Gemetan*. i. *convenire*. It signifieth (as *M. Lamberd* saith in his explication of Saxon words, *verbo* (*Conuentus*) two kind of Courts, one nowe called the countie court, the other called the Shyreccues turne: This word is still in vse among the Londoners, and signifieth *celebrem ex omni civitate conuentum*: Stowe in his Suruey of London. but *M. Manwood* in his first part of forest



lawes. pag. 111. hath these words. *Folkemote* is the court holden in London, wherein all the folke and people of the citie did complaine on the Mayor and the Aldermen, for misgouernment within the citie.

*Forbarre*, is for euer to depriue. an. 9. Ric. 2. ca. 2.

*Force* (*Forcia*) is a french word, signifying (*vim, nervositatem, fortitudinem, virtutem*) in our common lawe, it is most vsually applied to the euill part, and signifieth vnlawfull violence. *West* thus defineth it: *Force* is an offence, by which violence is vsed to things or persons. *parte 2. symbol. titulo. Inditements. sect. 65.* where also he diuideth it thus: *Force* is either simple or compound. Simple is that which is so committed, that it hath no other crime adioyned vnto it; as if one by force doe onely enter into an other mans possession, without doing any other vnlawfull act there. Mixt force, is that violence, which is committed with such a fact, as of it selfe onely, is criminall; as if any by force enter into another mans possession, and kill a man, or ravish a woman there, &c. he farther diuideth it into true force, and force after a sort, and so proceedeth to diuers other braunches worth the reading, as forcible entry, forcible detaining, vn-

lawfull assembly, *Rowtes, Riots, Rebellions, &c.*

*Forcible detaining or withholding of possession*, is a violent act of resistance by strong hand of men weaponed with harnes, or other action of feare, in the same place or else where, by which the lawfull entrie of Iustices or others is barred or hindred. *West parte 2. symbol. titulo. Inditements, sect. 65. M.* of this see *Cromptons Iustice of peace, f. 58. b. &c. vsq; ad 63.*

*Forcible entrie* (*Ingressus manus fortifactus*) is a violent actual entrie into an house or land, &c. or taking a distresse of any person, weaponed, whither he offer violence or feare of hurt to any there, or furiously drue any out of the possession thereof. *West parte 2 symbol. titulo. Inditements, sect. 65. L.* of this see *Cromptons Iustice of peace, fol. 58. b. 59. &c. vsq; 63.* It is also vsed for a writ grounded vpon the statute. anno 8. H. 6. ca. 9. wherof reade *Fitz. nat. br. at large, fol. 248.* See the newe booke of Entries, verbo *Forcible Entrie*, see *Lamb. definitio in certen cases. Eiren. l. 2. c. 4. p. 145.*

*Forein* (*Forinsecus*) commeth of the french (*Forain. i. externus, externus*) it is vsed adiectiuely in our common lawe, and ioyned with diuers substantiuies in senses not vnworthy the exposition, as *Forein mater*, that is mater triable in another countie, *pl. cor. fol.*

fo. 154. or mater done in another countie, *Kitchin. fol. 126. Foreimplea (forinsecum placitum)*. i. a refusal of the Iudge as incompetent, because the mater in hand was not within his precincts, *Kitchin. fol. 75. & anno 4. H. 8. ca. 2. & anno 22. eiusdem. ca. 2. & 14.* *Forein* aunswer, that is, such an answer, as is not triable in the countie where it is made. *anno 15. H. 6. ca. 5. Forein service (forinsecum servitium)* that is such service, whereby a meaine Lord holdeth ouer of another, without the compasse of his owne fee. *Brooke. titulo Tenures. f. 251. nu. 12. & 28. & Kitchin, fol. 209.* or else that which a tenent performeth, either to his owne Lord, or to the Lord paramount out of the fee. For of these seruices, *Bracton* speaketh thus, *lib. 2. cap. 16. nu. 7. Item sunt quedam seruitia, quae dicuntur forinseca, quamvis sunt in charta de feoffamento expressa & nominata: & quae ideo dici possunt forinseca, quia pertinent ad Dominum Regem, & non ad dominum capitalem, nisi cum in propria persona profectus fuerit in seruitio: vel nisi cum pro seruitio suo satisfecerit domino Regi quocumq; modo, & fiunt in certis temporibus, cum casus & necessitas evenerit, & varia habent nomina & diuersa: Quandoq; enim nominantur forinseca, large sumpto vocabulo, quoad seruitium domini Regis, quandoq;*

*scutagium, quandoq; seruitium domini Regis, & ideo forinsecum dici potest, quia sit & capitur foris, siue extra seruitium quod fit Domino capitali. v. Broke Tenures 28. 95. Forein service, seemeth to be knights service or Escuage vncertaine. Perkins Reservations 650. Forein attachement (Attachiametum forinsecum) is an attachement of foriners goods, found within a libertie or citie, for the satisfaction of some citizen, to whome the said foriner oweth money.*

*Forein Apposer (forinsecarum oppositor)* is an officer in the exchequer, to whom all shyreuees and baylifes doe repaire, by him to be opposed of their greene waxe, and from thence draweth downe a charge vpon the shyreuee and baylife to the cleik of the pipe.

*Forest (Foresta)* is a french word, signifying a great or vast wood. *Lieu forestier & saluage: locus sylvestris & saltuosus.* The writers vpon the common law define it thus: *Foresta est locus ubi fere inhabitant vel includuntur. glos. in ca. cum dilecti. extra. de donatio. & Felinus in ca. Rodolphus. versu, quid autem Foresta. extra de rescriptis.* speaketh to the same effect. Some other writers doe say, it is called *foresta*, quasi *ferarum statio, vel tuta mansio ferarum.* But as it is taken with vs, *M.*



*Mann* in his second part of forest lawes, *cap. 1. nu. 1.* thus defineth it: A Forest is a certaine territorie of wooddy grounds & fruitfull pastures, privileged for wild beasts, and fowles of forest, chace, and warren, to rest and abide in, in the safe protection of the King, for his princely delight and pleasure: which territorie of ground so privileged, is meered and bounded with vnmoueable markes, meeres, and Boundaries, either knowne by mater of record, or else prescription, and also replenished with wild beasts of Venerie, or chace, and with great coverts of vert, for the succour of the said wild beasts, to haue their aboad in: for the preservation & continuance of which said place, together with the vert and venison, there are certaine particular lawes, privileges, and officers, belonging to the same, meete for that purpose, that are onely proper vnto a forest, and not to any other place. The same definition he hath *parte 1. pag. 139.* which though it haue many superfluities, yet it well expresseth the nature of the thing, especially the explication adioyned, which there is set downe by the said author in both places in his first part *pag. 16.* where he fetcheth a forest from such overgrowne antiquitie, alledging for it the second booke of Kings, *ca. 2. ver.*

24. & *ca. 19. vers. 23.* and the 104. psalme *vers. 20.* the 131. *ver. 6.* he taketh licence to sport himselfe, for though our english translation haue the word forest, to expresse the vastnes of the desert, yet if we looke to the originall Idome, we shall finde no more reason to call those places forests, the either chases or parks.

The maner of making forests, as the same author well setteth downe, *parte. 1. pag. 142.* is this. The king sendeth out his commissio vnder the broad scale of England, directed to certaine discrete persons, for the view, perambulation, meering & bounding of the place, that he mindeth to afforest; which returned into the chauncerie, proclamation is made throughout all the Shire, where the ground lieth, that none shal hunt or chace any maner of wilde bests within that precinct, without the kings speciall licence, after which he appointeth ordinances, lawes, and officers, fit for the preservation of the vert and venison: and so becommeth this a forest by mater of record. The properties of a forest are these in speciall, first, a forest, as it is truly and strictly taken, cannot be in the hands of any but the king: the reason is giuen by *M. Mannood*, because none hath power to graunt commission to a Justice in *Etre* for the forest, but the king. *parte. 1.*

pag. 87. The second propertie, be the courts, as the Iustice seate every three yeare, the Swainmote thrice every yeare: *Idem eodem pag. 90. & parte 2. ca. 1. nu. 4. & 5.* and the attachement, once every fortie daies. *Idem eod. pag. 92.* The third propertie may be the officers belonging vnto it, for the preservation of the vert and venison, as first the Iustices of the forest, the warden or keeper, the verders, the foristers, Agistours, Regarders, Bailiffes, Bedels and such like, which you may see in their places. See *Manwood part. 2. ca. 1. nu. 4 & 5.* But the cheife propertie of a forest, both by *M. Manwood. parte 1. pa. 144.* and *M. Crompton pag. 146.* is the Swainmote, which (as they both agree) is no lesse incident vnto it, then the court of Pyepowders to a faire. Other courts and offices are not so requisite, in those forests that are in the hands of subiects, because they be not truly forests: but if this faile, then is there no thing of a forest remaining, but it is turned into the nature of a chase. See *Chace.* I reade of thus many forests in *England.* The forest of *Windsour* in *Berkshire:* *Cambd. Britan. pag. 213.* of *Picke-ving.* *Crompton 190.* of *Shirwood* *idem fol. 202.* of *Englewode* in *Cumber-land.* anno. 4. *H. 7. ca. 6. & Crompton fol. 42.* of *Lancaster.* *Idem fol. 196.* of *Wolemore.* *Stoves*

*Annals. pag. 462.* of *Gillingham.* *Idem. pag. 113.* of *Knaresb-rom.* anno. 21. *H. 8. ca. 17.* of *Wal-thingam.* *Cambd. pag. 328.* of *Breden.* *Idem. pag. 176.* of *Whitchurch.* *Idem. pag. 150.* of *Wiersdale.* *Idem. pag. 589.* and *Loansdale.* *Idem. pag. 266.* & anno 8. *H. 6. ca. 27.* & anno 19. *H. 7. cap. 8.* of *Saint Leonards* in *Southsex.* *Manwood parte. 1. pa. 144.* of *Waybridge & Sapler.* *Idem. eodem. pa. 63.* of *Whitwey.* *pag. 81.* of *Eckenham.* *Cambd. pa 441.* of *Rockingham.* *Idem pag. 296.* *Forest de la mer.* *Idem. pag. 467.* of *Huckstowe.* *Idem pa. 456.* of *Haye.* *Manwood part. 1 pag. 144.* of *Cant-felly,* *endem pag. of Ashdowne* in the county of *Sussex.* anno. 37. *H. 8. ca. 16.* *Forests of Whittil-wood* and *Swasie* in the countie of *Northampton.* anno 33. *H. 8. ca. 38.* of *Fronselwood* in *com. Somers-et.* *Cooke li. 2. Cromm. case. f. 71. b.* I heare also of the forest of *Exmore,* in *Deuonshire.* There may be more which he that listeth, may looke for.

*Forester* (*forestarius*) is a sworn officer of the Forest, appointed by the Kings letters patents, to walke the forest both carely and late, watching both the vert and venison, attaching and presenting all trespassers against them, within their owne bayliwicke or walke: whose oath you may see in *Crompton,*



fol. 201. And though these letters patents be ordinarily graunted, but *quam diu bene se gesserint*, yet some haue this graunt to the and their heires, and thereby are called *Foristers* or *Fosters* in *fee. Idem*, fol. 157. & 159. Et *Manwood parte prima. pag. 220.* whome in Latine *Crompton* calleth *Foristarium feudi. fol. 175.*

*Foreindger*, (*forisinducatio*) signifieth in the common lawe, a iudgement, whereby a man is depriued, or put by the thing in question. It seemeth to bee compounded of (*foris. i. prater*) & (*inger. i. inducere.*) *Bracton lib. 4. tract. 3. cap. 5.* hath these words: *Et non permittas quod A. capitalis dominus feudi illius, habeat custodiam heredis, &c. quia in Curia nostra forisinducatur de custodia, &c.* So doth *Kitchin* vse it. fol. 209. and old *nat. bre. fol. 44.* & 81. and the statute. anno 5. Ed. 3. cap. 9. and anno 21. R. 2. cap. 12. *Forinducatus* with authors of other nations signifieth as much as (*banished*) or as (*deportatus*) in the auncient Romaine lawe, as appeareth by *Vincentius de Franchis, descif. 102.* *Mathaus de Afflictis. lib. 3. feudorum. Rub. 31. pag. 625.*

*Foregoers* be pourveyours, going before the king or queene, being in progresse, to prouide for them, anno 36. Ed. 3. cap. 5.

*Forfeiture*, (*forisfactura*) com-

meth of the French word (*forfait. i. scelus*) but signifieth in our language, rather the effect of transgressing a penall lawe, then the transgression it selfe: as forfeiture of *Escheates. anno 25. Ed. 3. cap. 2. Statut. de Proditionibus.* Goods confiscate, and goods forfeited differ. *Stawnf. pl. cor. fol. 186.* where those seeme to be forfeited, that haue a knowne owner, hauing committed any thing whereby he hath lost his goods; and those confiscate, that are disavowed by an offendour, as not his owne, nor claymed by any other. I thinke rather, that forfeiture is more generall, and confiscation particular, to such as forfeit onely to the Princes Exchequer. Reade the whole chapter. *lib. 3. cap. 24.* Full forfeiture (*plena forisfactura*) otherwise called (*plena vna*) is forfeiture of life and member, and all else that a man hath. *Manwood parte prim. pag. 341.* The Canon Lawyers vse also this word. *For forisfacta sunt pecuniaria poena delinquentium. Glos. in cap. Presbyteri, extra. de poenis.*

*Forfeiture of marriage*, (*forisfactura maritagii*) is a writ lying against him, who houlding by knights seruice, and being vnder age and vnmarried, refuseth her, whome the Lord offereth him, without his disparagement, and marieth another. *Fitzh. nat. br. fol.*

141. H. I. K. L. Register orig. fol. 163. b.

*Forfeng*, *quist antiam prioris prisae designat: in hoc enim delinquent Burgenses Londonenses, cum prisas suas ante prisas regis faciunt. Fle-ta lib. 1. cap. 47.*

*Forgerie*. See here next following, *Forger of false deeds*.

*Forger of false deedes*, com-meth of the french (*Forger*). i. *accudere, fabricare, conflere*, to beate one an anvile, to fashion, to bring into shape, and signifi-eth in our common law, either him that fraudulently maketh and publisheth false writings, to the prejudice of any mans right, or else the writ that lyeth against him, that committeth this offence. *Fitzh. nat. br. fol. 96. B. C.* calleth it a writ of de-ceite. See *Termes of law, verbo Forger.* and *West's Symbol. parte. 2. Indictments, sectio. 66.* See the new booke of Entries. *verbo Forger. de faits*. This is a branch of that which the ciuilians call *crimen falsi*: Nam *falsarius est, qui decipi-endi causa scripta publica falsificat. Speculator. de crimine falsi. Falsi crimen proprie dicatur, quod utilitatis priuata causa factum est. Connanus li. 5. ca. 7. nu. 4. Ad esse falsitatis tria requiruntur: mutatio veritatis, do'us, & quod alteri sit nocivum. Quorum si alterum desit, falsitas non est punibilis. Hostiensis, & Azo in suis summis.*

*Forister*. See *Foxester*.

*Formdon* (*Breve formatum do-nationis*) is a writ that lyeth for him, that hath right to any lands or tenements by vertue of any entayle, growing from the sta-tute of *Westm. 2. cap. 1.* It lyeth in three sorts, and accordingly is called *forma donationis*, or *formdon* in the descender: *form-don* in the reverter, or *formdon* in the remainder. *Formdon* in the descender lyeth for the recouery of lands, &c. giuen to one and the heyres of his bodie, or to a man and his wife, and the heyres of their two bodies, or to a man and his wife being cosin to the donour, in franke mari-age, and afterward alienated by the Donee. For after his deceale his heyre shall haue this writ a-gainst the tenent or alienee. *Fitz. nat. br. fol. 211.* He maketh three sorts of this *formdon* in the des-cender: The first is, in the ma-ner now expresse: the second is, for the heire of a coparcener, that alienateth and dieth. *fol. 214* The third is called by him (*In simul tenuit*) *fol. 216.* which lyeth for a coparcener or heire in Ga-uellkind, before partition against him, to whome the other copar-cener or heire hath alienated and is dead. *Formdon* in the reuerter, lyeth for the donour or his heires, where land entayled to certaine and their issue, with condi-



condition for want of such issue to reuert to the donour and his heires, against him to whom the Donee alienateth, after the issue extinct, to which it was entayled. *Fitzb. nat. br. fol. 219.* Formdon in the remainder lyeth, where a man giueth landes in tayle, the remainder to another in tayle, and afterward the former tenent in tayle dieth without issue of his bodie, and a stranger abateth, then he in the remainder shall haue this writ. *Fitz. nat. br. fol. 217.* See the *Register original. fol. 238. 242. 243.* of this see the new booke of Entries. *verb. Formdon.*

*Forsechoke*, seemeth to signifie originally as much as *forsaken* in our moderne language, or (*derelictum*) with the Romaines. It is especially vsed in one of our statutes, for land or tenements seised by the Lord, for want of seruices due from the tenent: and so quietly held and possessed beyond the yeare and day. As if we should say, that the tenent which seeing his land or tenements taken into the Lords hand, and possessed so long, taketh not the course appointed by lawe to recouer them, doth in due presumption of lawe disavow or forsake whatsoever right he hath vnto them. See the statute *anno 10. Ed. 1. cap. vni-*  
*co.*

*Forstall*, is to be quit of a-merciaments and catels arrested within your land, and the a-merciaments thereof comming. New termes of lawe.

*Forstalling* (*forstallatio*) is partly french, for (*Estaller*) is in that tongue, as much as (*merces exponere, expedire, explicare*) or to shew wares in a market or faire. It signifieth in our common law, the buying or bargaining for any victuals or wares comming to be sould toward any faire or market, or from beyond the seas toward any city, port, haven, creeke, or roade of this realme, and before the same be there. *anno. 51. H. 3. stat. 6. West. parte 2. Symbol. titulo indictments. sect. 64.* *Forstaller*, in *Cromptons Jurisdiction*, fol. 153. is vsed for stopping of a deere broken out of the forest, from returning home againe, or laying betweene him and the forest, in the way that he is to returne: See *Regratours* and *Engrossers*. See *Cromptons Iustice of pe. acc. fol. 69. a.* The author of the new termes of law defineth it thus. *Forstalling* (*Forstallamentum*) is the buying of corne, catell, or other merchandies by the way, as it commeth toward the faire or market to be sould, to the intent to sell the same againe at a more high and deere price. *Fleta* saith thus of it, *significat obtrusionem viæ vel impedimentum*

*montum transitus & fuga auctoris*  
rum, li. 1. cap. 47.

*Fortescue*, was a learned Lawyer,  
& Lord Chauceler in Henry the  
6. dayes: who writ a booke in  
the commendation of our com-  
mon lawes.

*Fortlet (forteletum)* commeth  
nere the french (*fortelet. i. va-*  
*leniculus, forticulus*) and signifi-  
eth in our common lawe, a  
place of some strength. *old nat.*  
*br. fol. 45.* This in other coun-  
tries is written (*fortalitium*) and  
signifieth (*castrum.*) *Scraderus se-*  
*lect. & practabil. quest. 8. 12. nu.*  
*7. & 8.*

*Fother*, is a weight of twenty  
hundred, which is a waine or  
cart load. *Speight* in his *Annot.*  
vpon *Chaucer.*

*Fourche (Afforciare)* seemeth  
to come of the french, (*four-*  
*cher. i. titubare linguæ*) and signi-  
fieth in our common lawe, a  
putting off, prolonging, or de-  
lay of an action. And it appea-  
reth no vnpleasant metaphor: for  
as by stammering we draw out  
our speech, not deliuering that  
we haue to say in ordinary time,  
so by fourching we prolong a  
suite that might be ended in a  
shorter space. To fourch by es-  
soine. *Westm. 1. cap. 24. anno 3.*  
*Edi. prim.* where you haue words  
to this effect: *Coparceners, Joint-*  
*tenants,* and Tenents in common,  
may not fourch by essoine, to es-

soine seuerally, but haue only  
one essoine, as one sole tenant  
may haue. And *anno 6. Ed. 1. ca.*  
*10.* you haue it vsed in like  
sort.

*Footgeld*, is a word compoun-  
ded of these two German words  
(*fous. i. pes,* and (*gyldan. i. solvere*)  
and it signifieth an amercement  
for not cutting out the balles of  
great dogges feet in the forest.  
See *Expeditate.* And to be quit  
of *footgeld* is a priuiledge to  
keepe dogges within the forest,  
vnlawed, without punishment  
or controulment. *Cromptons Iuris-*  
*dict. fol. 197. Manwood parte pri.*  
of his forest lawes, pag. 86.

*Fowles of warren.* See *War-*  
*ren.*

*Founder*, is he that melteth  
mettall, and maketh any thing  
of it, by casting it into a mold,  
&c. *anno 17. Rich. 2. cap. 1.* deri-  
ued of the verbe (*fundere*) to  
powre.

*Franchise, (libertas, franchesia)*  
commeth of the french (*fran-*  
*chise*) so signifying: it is taken  
with vs for a priuiledge, or an  
exemption from ordinarie iuris-  
dictiõ, and sometime an immu-  
nitie from tribute. It is either  
personall or reall. *Crompt. Iurisd.*  
*fol. 141.* that is belonging to a  
person immediatly, or else by  
meanes of this or that place, or  
court of immunitie, whereof  
he is either chiefe or a member.



In what particular things franchises commonly consist, See *Britton cap. 19. Franchise royall anno 15. R. 2. cap. 4. & anno 2. H. 5. cap. 7. in fine*, seemeth to bee that, where the kings writs runne not: as *Chester* and *Durham*, they are called Seignories royall. *an. 28. H. 6. cap. 4.* The authour of the new Termes of lawe saith, that *franches royall* is, where the King graunteth to one and his heires, that they shall be quit of tolle or such like: See *franchise* in the new booke of Entries. See *Bracton lib. 2. cap. 5. See Sac.*

*Frank almoine* (*libera Eleemolina*) in french (*frank Ausmone*) signifieth in our common lawe, a tenure or title of lands. *Britton cap. 66. nu. 5.* saith thus of it: *Frank almoine* is lands or tenements bestowed vpon God, that is, giuen to such people, as bestow themselves in the seruice of God, for pure and perpetuall almes: whence the feoffours or giuers cannot demaund any terrestriall seruice, so long as the lands, &c. remaine in the handes of the feoffees. With this agreeth the grand customary of *Normandie. cap. 32.* Of this you may reade *Bracton* at large. *lib. 2. cap. 5. & 10. See Fitzh. nat. br. fol. 211.* See the new booke of Entries. *verbo. Frank Almoine.* But *Britton* maketh another kind of this land, &c. which is giuen in

almes, but not free almes: because the tenents in this are tyed in certain seruices to the feoffor, *Britton ubi supra.*

*Frank bank* (*francus bancus*) in true french, (*franc banc*) signifieth, word for word, a free bench or seate: and among our lawe writers, it seemeth to be vsed for copyhold lands, that the wife being espoused a virgin, hath after the decease of her husband for her dower. *Kitchin fol. 102. Bracton lib. 4. tract. 6. cap. 13. nu. 2.* hath these wordes: *Consuetudo est in partibus illis, quod uxores maritorum defunctorum habeant francum bancum suum de terris sockmannorum, & tenent nomine dotis.* *Fuzher.* calleth it a custome, whereby in certaine cities the wife shall haue her husbands whole lands, &c. for her dower. *Nat. br. fol. 150. P. See Plowden casu Newis. fol. 413.*

*Frank chase*, (*Libera chasea*) is a libertie of free chase, whereby all men hauing ground within that compasse, are prohibited to cut downe wood, or discover, &c. without the view of the forester, though it be his owne demesne. *Cromptons Iurisdiction, fol. 187.*

*Frank fee* (*feudum francum, seu liberum*) is by *Brooke tit. Demesne. num. 32.* thus exprest: That which is in the hand of the King or Lord of any maner, being

being auncient demesne of the Crowne (*viz.* the Demesnes) is called *frank fee*, and that which is in the hands of the tenants, is auncient demesne onely: see the *Register original. fol. 12. a.* Whereby it seemeth, that that is frank fee, which a man holdeth at the common lawe to himselfe and his heires, and not by such service as is required in auncient demesne, according to the custome of the maner. And again, I find in the same booke *fol. 14. b.* a note to this effect, that the lands which were in the hands of king *Edward the Saint*, at the making of the booke called *Domesday*, is auncient demesne: and that all the rest in the realme is called frank fee: with the which note *Fitzherb. agreeth. na. br. fol. 161. E.* So that all the land in the realme, by this reason, is either auncient demesne, or frank fee. The new expounder of the lawe termes defineth frank fee, to be a tenure in fee simple, of lands pleadable at the common lawe, and not in auncient demesne: See *Fachinus. lib. 7. cap. 39.* who defineth *feudum francum esse, pro quo nullum servitium prestatur Domino*: with whom agreeth *Zafius de feudis parte 12.* saying, that therefore it is *feudum improprium, quia ab omni servitio liberum.*

*Frank ferme (Firma libera)* is

land or tenement, wherein the nature of fee is changed by feofment, out of knights service, for certaine yearely services, and whence neither homage, wardship, marriage, nor releife may be demanded, nor any other service not contained in the feofment. *Britton. ca. 66. nu. 3.* see *Fee ferme.*

*Frank law (libera lex)* See *Cromptons Justice of peace. fol. 156. b.* where you shall finde what it is, by the contrary. For he that for an offence, as conspiracy, &c. leeseeth his franke lawe, is said to fall into these mischiefs: first, that he may never be impaneled vpon any iury, or assise, or otherwise vsed in testifying any truth. Next, if he haue any thing to doe in the kings court, he must not approach thither in person, but must appoint his attourney. Thirdly, his lands, goods, and chatels must be seised into the kings hands: and his lands must be estreaped, his trees rooted vp, and his body committed to prison. For this, the said author citeth the booke of Assises *fo. 59.* *Conspiracy. F. 11. 24. Ed. 3. fo. 24.* See *Conspiracy.*

*Frank marriage (liberū maritagium)* is a tenure in taile speciall, growing from these words in the gift comprised; *Sciart &c. me M. H de W. dedisse & concessisse, & presenti charta mea confirmasse I. A. filio*



*meo & Margeria uxori eius, filia  
vera T.N. in liberū maritagium v-  
num messuagium &c. West parte i.  
Symbol. li. 2. sect. 303. The effect  
of which words is, that they shall  
haue the land to them, and the  
heires of their bodies, and shall  
doe no fealty to the donour, vn-  
till the fourth degree. See new  
Terms of law. Glanville li. 7. ca.  
18. & Bracton li. 2. ca. 7. m. 4.  
where he diuideth *maritagium*,  
*in liberum & seruicio obligatum*.  
See *Marriage*. Fleta giueth this  
reason why the heires doe no  
seruice vntill the fourth discent,  
*ne donatores vel eorum heredes, per  
homagii receptionem, a reuersione re-  
pellantur*. And why in the fourth  
discent and downward, they  
shall doe seruice to the donour,  
*quia in quarto gradu vehementer  
presumitur, quod terra non est pro  
defectus heredum donatariorum re-  
uersione, libro tertio. ca. 11. in  
princ.**

*Frankpledge* (*Franciplegium*) is  
compounded of (*Franc .i. liber*)  
and (*pleige .i. fideiussor*) and signi-  
fieth in our common law, a  
pledge or surety for free men.  
For the auncient custome of En-  
gland for the preseruacion of the  
publique peace, was that euery  
free borne man, at fourteene  
yeares of age, after *Bracton* (reli-  
gious persons, clerks, knights,  
and their eldest sonnes excepted)  
should finde suerty for his truth

toward the King and his sub-  
iects, or else be kept in prison,  
whereupon a certaine number  
of neighbours became customa-  
bly bound one for another, to  
see each man of their pledge  
forthcomming at all times, or to  
answere the transgression com-  
mitted by any broken away. So  
that whosoeuer offended, it was  
forthwith inquired in what  
pledge he was, and then they of  
that pledge, either brought him  
forth within 31. daies to his aun-  
swere, or satisfied for his offence.  
This was called *Frankpledge*,  
*causa qua supra*. and the circuit  
thereof was called *Decenna*, be-  
cause it commonly consisted of  
10. housholdes: And euery par-  
ticular person thus mutually  
bound for himselfe and his  
neighbours, was called *Decenni-  
er*, because he was of one *Decen-  
na* or another: This custome was  
so kept, that the shyreuees, at  
euery county court, did from  
time to time take the oaths of  
yonge ones, as they grew to the  
age of 14. yeares, and see, that  
he were combined in one dozen  
or another. whereupon this  
braunch of the shyreuees autho-  
rity was called *visum Franciplegii*,  
view of frankpledge. See the sta-  
tute for view of Frankpledge,  
made anno. 18. Ed. 2. See *Decen-  
nier*, *Leete view of Frankpledge*,  
and *Freoborger*. That this disci-  
pline

pline is borrowed by vs of the *Romane Emperours* or rather *Lombards*, appeareth most manifestly in the second booke of *Feuds*. ca. 53. vpon which if you reade *Hotoman*, with those authors that he there recordeth, you will thinke your labour well bestowed. Reade more of this. viz. what articles were wont to be inquired of in this court, in *Hornes mirrour of Iustices* li. 1. ca. de la venen des francs pleges, and what these articles were in ancient times, see in *Fleta*. li. 2. ca. 52.

*Fredwit See Fletwit.*

*Free chapell* (*libera Capella*) by some opinion, is a chapell founded within a parish for the seruice of God, by the deuotion and liberalitie of some good man, ouer and aboue the mother Church, vnto the which it was free for the parishioners, to com or not to come, & endowed with maintenance by the founder, and therevpon called free: I haue heard others say, and more probably, that those only be free chapels, that are of the Kings foundation, and by him exempted from the Iurisdiction of the Ordinarie: but the King may licence a subiect to found such a chapell, and by his charter exempt it from the Ordinaries visitation also. That it is called free in respect it is exempted from

the iurisdiction of the Diocesan, appeareth by the Register originall. fol. 40. & 41. These chapels were all giuen to the King: with chaunteries anno. 1. Ed. 6. ca. 14. *Free chapell of Saint Martin le grand*. anno. 3. *Eduardi 4. capite quarto*. & anno. 4. *Eduard. quarto* ca. 7.

*Free hould* (*liberum tenementum*) is that land or tenement, which a man holdeth in fee, fee taile, or at the least, for terme of life, *Bract. li. 2. ca. 9*. The newe expounder of the lawe termes saith, that free hold is of 2 sorts. Freehold in deede, and freehold in lawe: Freehold in deede, is the reall possession of land or tenements in fee, fee taile, or for life. Freehold in lawe, is the right that a man hath to such land or tenements before his entry or seisure. I haue heard it likewise extended to those offices, which a man holdeth either in fee or for terme of life. *Bruton* defineth it to this effect. *Frank tenement* is a possession of the soile, or seruices issuing out of the soile, which a free man holdeth in fee to him and his heires, or at the least, for tearme of his life, though the soile be charged with free seruices or others. ca. 32. *Free hold* is sometime taken in opposition to villenage. *Bract. li. 4. ca. 37*. & 38. *M. Lamberd* (in his ex-



plication of Saxon words, *verbo Terra ex scripto* saith, that land in the Saxons time was called either *Backland*, that is holden by booke or writing: or *Felo-land*, that is holden without writing: The former, he reporteth, was held with farre better conditions, and by the beter sort of tenents, as noble men and gentlemen, being such as we now call free hold: the later was commonly in the possession of clownes, being that which wee now call at the will of the Lord: I finde in the Register iudiciall fol. 68. a. and in diuers other places, that he which holdeth land vpon an execution of a Statute merchant, vntill he be satisfied the debt. *tenet ut liberum tenementum sibi & assignatis suis.* and fol. 73. b. I reade the same of a tenent *per elegit*; where I thinke the meaning is not, that such tenents be freeholders, bur as freeholders for their time, that is vntill they haue gathered profits to the value of their debt. Freeholders in the auncient lawes of Scotland, were called *Militēs*. *Shene de verb. signif. verb. Militēs*: The D. & Student saith, that the possession of land, after the lawe of England, is called *franck tenement*, or free hold. fol. 97. a.

*Frenchman* (*Francigena*) was wont to be vsed for euery out-

landish man. *Bracton lib. 3. tract. 2. cap. 15. See Engleccric.*

*Frendwite*, vel *Infeng* significat *quietantiam prioris prius a ratione conuicti*. *Fleta li. 1. ca. 47.*

*Frendles man*, was wont to be the Saxon word for him, whome we call an outlawe. And the reason thereof I take to be: because he was vpon his exclusion from the kings peace and protection, denied all helpe of freinds, after certaine daies. *Nam forisfecit amicos*. *Bract. li. 3. tract. 2. ca. 12. nu. 1.* whose words are these. *Talem vocant Angli (ut laugb) & alio nomine antiquitus solet nominari, sc: Frendles man: & sic videtur quod forisfecit amicos: & unde si quis talem post utlagariam & expulsiōem scienter pauerit, receptauerit, vel scienter communicauerit aliquo modo, vel receptauerit, vel occultauerit, e idem pena puniri debet, quā puniretur utlagatus: ita quod careat omnibus bonis suis & v. l. a, nisi Rex ei parcat de sua gratia.* *Fresh disseisin* (*Friscia disseisina*) commeth of the french (*Fraiza recens*) and (*disseisir i possessione euicere*) It seemeth to signifie in our common law, that disseisin that a man may seeke to defeat of himselfe, and by his owne power, without the helpe of the king or his iudges, *Britton. ca. 6.* & that is such disseisin, as is not aboue 15. daies olde. *Bract. li. 4. ca. 5.* whome you may reade at large

large of this mater, concluding that it is arbitrarie, and so doth *Britton. ca. 63.* but *ca. 43.* he seemeth to say, that in one case it is a yeare. See him also *ca. 44.*

*Fresh fine*, is that which was levied within a yeare past, *Westm. 2. cap. 45. an. 13. Ed. 1.*

*Fresh force* (*Frisca fortia*) is a force done within 40. daies, as it seemeth by *Fitzh. nat. br. fol. 7. C.* For if a man be disseised of any lands or tenements, within any city or borough, or deforced from them after the death of his auncester, to whome he is heire: or after the death of his tenant for life or in taile: he may within 40. daies after his title accrued, haue a bille out of the chauncerie to the Mayor, &c. See the rest.

*Fresh suite* (*recens insecutio*) is such a present and earnest following of an offendour, as neuer ceaseth from the time of the offence committed or espied, vntill he be apprehended. And the effect of this, in the pursuite of a felon, is, that the partie persewing shall haue his goods restored him againe: whereas otherwise they are the kings. Of this see *Stawm. pl. cor. li. 3. ca. 10. & 12.* where you shall finde handled at large, what suite is to be accounted fresh, and what not. And the same author in his first booke, *cap. 27.* saith, that fresh

suite may continue for seuen yerres, See *Cookes reportes. l. 3. Rige-waies case.* *Fresh suite*, seemeth to be either within the view or without: for *M. Mamwood* saith, that vpon fresh suite within the view, trespassers in the forest may be attached by the officers persewing them, though without the limits and boundes of the forest. *parte 2. ca. 19. nu. 4. fol. 121.*

*Freoborgh*: alias *Fridburgh*: alias *Frithborg* (*Frideburgum*) cometh of two Saxon words (*Freo. i. liber, ingenuus*) and (*borgh. i. fideiussor*) or of (*Frid. i. pax*) & (*Borgha. i. sponsor*) This is otherwise called after the French (*Franck pledge*) the one being in vse in the Saxons time, the other sithence the Conquest: wherefore for the vnderstanding of this, reade *Franck pledge*. That it is all one thing, it appeareth by *M. Lamberd* in his explication of Saxon words, *verbo Centuria* and againe in the lawes of King *Edward* set out by him, *fol. 132.* in these words: *Prater ea est quadam summa & maxima securitas, per quam omnes statu firmissimo sustentur: viz. ut unusquisq; stabiliat se sub fideiussionis securitate, quam Angli vocant (Freoborghes) soli: amen Eboracenses, dicunt eandem (Tiemmannatale) quod sonat latine decem hominum numerum. Hac securitas hoc modo fiebat, quod de omnibus vslis*



lis totius regni sub decennali fidei-  
 iussione debebant esse uniuersi: ita  
 quod si unus ex decem forisfecerit,  
 novem ad rectum eum haberent: quod  
 si auferetur, daretur lege terminus  
 ei 31. dierum: ut quatuor interim  
 & inventus, ad iustitiam Regis ad-  
 duceretur, & de suo illico restau-  
 raret damnum quod fecerat. Et si ad  
 hoc forisfaceret, de corpore suo ius-  
 titia fieret. Sed si infra predictum  
 terminum inveniri non posset, & c: as  
 in the booke: Bratton maketh  
 mention of (Fridburgum. lib. 3.  
 tract. 2. cap. 10. in these words:  
 Archiepiscopi, Episcopi, Comites, &  
 Barones, & omnes qui habent Sec,  
 & Sak, Tol, & Team, & huiusmo-  
 di libertates, milites suos & proprios  
 servientes, armigeros sc. dapiferos,  
 & pincernas, camerarios, coquos, pi-  
 stores, sub suo Fridburgo habere de-  
 bent. Item & isti suos Armigeros,  
 & alios sibi servientes. Quod si cui  
 forisfecerint, ipsi domini sui habeant  
 eos ad rectum, et si non habuerint,  
 solvant pro eis forisfacturam. Et sic  
 observandum erit de omnibus aliis,  
 qui sunt de alicuius manuplastu. Out  
 of these words, I learne the  
 reason, why great men were not  
 combined in any ordinarie do-  
 zeinc, and that is, because they  
 were a sufficient assurance for  
 themselves and for their meniall  
 servants: no lesse then the tenne  
 were one for another in ordi-  
 narie dozeins. See Frank, pledge:  
 see Skene de verborum significatio-

ne. verbo. Freiborgh. Eleta writeth  
 this word (frithborgh) and vseth  
 it for the principall man, or at  
 the least, for a man of every do-  
 zein. Frithborgh (saith he) est  
 laudabilis homo testimonii liber vel  
 servus, per quem omnes iuxta ipsum  
 commorantes firmiori pace susten-  
 tentur sub stabilitate fideiussoris ei-  
 us vel alterius per denarium nume-  
 rum, unde quilibet quasi plegius al-  
 terius: ita quod si unus feloniam fe-  
 cerit, novem tenentur ipsum ad  
 standum recto presentare. lib. 1. ca.  
 47. s. Frithborgh. See Roger Ho-  
 vreden, parte post. suorum annal.  
 in Henrico secundo. fol. 345. a. b.

Frier (frater) commeth of the  
 French (frere) there be foure or-  
 ders reckoned of them. anno 4.  
 H. 4. cap. 17. viz. Minours, Au-  
 gustines, Preachers, and Car-  
 melites, the foure principall or-  
 ders, of which the rest descend.  
 See in Zechius de rep. ecc. pag. 380  
 Looke Linwood. titulo de relig. do-  
 mibus. cap. 1. verb. Sancti Au-  
 gustini.

Frier observant (frater obser-  
 vans) is an order of Franciscans:  
 for the better vnderstanding of  
 whom, it is to be noted, that of  
 those 4. orders mentioned in the  
 word (Frier,) the Franciscans,  
 are minores tam Observantes quam  
 Conventuales & Capuchini. Zec-  
 chius de Repub. Eccl. tract. de regul.  
 cap. 2. These Friars obser-  
 vant, you find spoken of anno 25.

H. 8. cap. 12. who be called observants, because they are not combined together in any cloyster, covent, or corporation as the Conuentuals are: but only tye themselves to obserue the rites of their order, and more strictly then the Conuentuals doe: and vpon a singularitie of zeale, separate themselves from them, liuing in certaine places, and companies of their owne chusing. And of these you may reade *Hospinian. de orig. & progr. Monachatus. fol. 878. cap. 38.*

*Friperer*, is taken from the French (*fripier*) *interpolator*, one that scowreth vp and cleanseth old apparell to sell againe. This word is vsed for a bastardy kind of broker. *anno 1. Iaco. cap. 21.*

*Frithborgh*, see *Freeborgh*.

*Frithsoken*, signifieth surety of defence, as Saxon saith in the description of *England, cap. 12.* It seemeth to come of these two Saxon words, *frith*, or *frid*, or (*fred.*) i. *pax*, & (*soken.* i. *quarere.*) *Fleta* tearmeth it *frithsokene*, *vel forsokene*, yeelding this reason, *Quod significat libertatem habendi franci plegii.*

*Fuer* (*fuga*) commeth of the French (*fuir*, i. *fugere*) though it be a verbe, yet it is vsed substantiue in our common law, and is twofold: *fuer in feit*, (*in facto*) when a man doth apparently and corporally flie, and

*fuer in ley*, (*in lege*) when being called in the countie, he appeareth not vntill he be outlawed: for this is flight in interpretation of law. *Stawnf. pl. cor. lib. 3. c. 22.*

*Fugiuues goods*, (*bona fugitiuorum*) be the proper goods of him that flyeth vpon felonie, which after the flight lawfully found, do belong to the king. *Coke vol. 6. fol. 109. b.*

*Furlong*, (*ferlingum terra*) is a quantitie of ground containing twenty lugs or poles in length, and euery pole 16 foote and a halfe, eight of which furlongs make a mile, *anno 35. Ed. 1. cap. 6.* It is otherwise the eighth part of an acre. See *Acre*. In the former signification the *Romanes* call it (*stadium*,) in the later (*ingerum*.) This measure which wee call a pole, is also called a perch, & differeth in length, according to the custome of the countrey. See *Perch*.

*Furre* (*furrura*) commeth of the French (*fouurer*. i. *pelliculare*) to line with skinnes. Of furre I find diuers strange kinds in the statute. *anno 24. H. 8. cap. 13.* as of *sables*, which is a rich furre of colour betweene blacke and browne, being the skinne of a beast called a *Sable*, of quantitie betweene a *Polecat* and an ordinarie cat, and of fashion like a *Polecat*,



bred in *Ruscia*, but most and the best in *Tartaria*. Lucerns, which is the skinne of a beaſt ſo called, being nere the bignes of a wolfe, of colour betweene red and browne, ſomething mayled like a cat, and mingled with blacke ſpottes, bred in *Muscovie* and *Ruscia*, & is a very rich furre. Genets, that is the skinne of a beaſt ſo called, of bignes betweene a cat and a weſell, mayled like a cat, and of the nature of a cat, bred in *Spaine*. Whereof there bee two kinds, blacke, and gray, and the blacke the more precious furre, hauing blacke ſpots vpon it hardly to be ſeene. Foines, is of faſhion like the Sable bred in *Fraunce* for the moſt part: the toppe of the furre is blacke, and the ground whitish. Marterne, is a beaſt very like the Sable, the skinne ſomething courſer, it liueth in all countries that be not too cold, as *England*, *Ireland*, &c. and the beſt be in *Ireland*. Miniuer, is nothing but the bellies of Squirels, as ſome men ſay: others ſay, it is a litle vermin like vnto a Weſell milke white, and commeth from *Muscovie*. Fitch, is that which we otherwiſe call the Polecat here in *England*. Shankes, be the skinne of the ſhanke or legge of a kind of Kidde which beareth the furre, that we call Budge. Calaber, is

a litle beaſt, in ſignes about the quantitie of a ſquirell, of colour gray, and bred eſpecially in high *Germanie*.

## G

**G**Abell (*gabella, gablum*) commeth of the French (*gabelle. i. veſtigal*) and hath the ſame ſignification among our old Writers, that (*gabelle*) hath in *Fraunce*, for *M. Camden* in his *Britannia. pag. 213.* ſpeaking of *Wallingford*, hath theſe words: *Continebat 276. hagas. i. domos reddentes novem libras de gablo:* and *pag. 282. of Oxford*, theſe: *Hac vrbs reddebat pro telonio & gablo, & aliis conſuetudinibus per annum, Regi quidem viginti libras, & ſex ſextarios mellis: Comiti vero A'garo decem libras. Gabella* (as *Cassianus* defineth it, *de conſuetu. Burgund. pag. 119.* *Eſt veſtigal quod ſoluntur pro bonis mobilibus, id eſt, pro hiis que vehuntur, diſtinguiſhing it from Tributum, quia Tributum eſt proprie, quod fiſco vel Principi ſoluntur pro rebus immobilibus.*

**Gage**, (*vadium*) commeth of the French (*gager. i. dare pignus, pignore certare*) and is it ſelte a French word nothing chaged, but in pronounciation. It ſignifieth with vs alſo a pawne or pledge. *Glarville lib. 10. cap. 6.* where he ſaith thus: *Quandoque*

*res mobiles ponuntur in vadium, quandoque res immobiles,* and a litle after that, thus: *In vadiatur res quadoque ad terminum, quandoque sine termino. Item quandoque in vadiatur res aliqua in mortuo vadio, quandoque non.* And from that chapter to the end of the twelfth in the same booke, he handleth this only thing. Though the word (*gage*) be retained as it is a substantiue, yet as it is a verbe, the vse hath turned the *G.* into *W.* so as it is oftener written (*wage*;) as to wage deliuerance, that is, to giue securitie that a thing shall be deliuered. For if he that distrained, being siewed, haue not deliuered the catell that were distrained, then he shall not onely avow the distresse, but (*gager deliuerance*) i. put in suretie, that he will deliuer the catell distrained. *Fitzh. nat. br. fol. 74. D. & 67. F.* whome see also *fol. 67. F. G.* yet in some cases, he shall not by tyed to make this securitie: as if the catell died in pound. *Kitchin fol. 145.* or if he claime a propertie in the catell siewed for. Termes of the lawe. To wage lawe what it is, see in his place. *verbo. Lane.* See *Mortgage.*

*Gager deliuerance.* See *Gage.*

*Gay's.* See *Gaoll.*

*Gainage, (Wainagium)* is neere to the French (*Gaignage. i. quaestus, lucrum,*) and signifieth in

our common lawe, the land held by the baser kind of Sokemen or villeines. *Bract. lib. 1. cap. 9.* where he hath these words, i. speaking of seruants: *Et in hoc legem habent contra dominos, quod stare possunt in iudicio contra eos de vita & membris propter seuitiam dominorum, vel propter intolerabilem iniuriam. Ut si eos distruant, quod saluum non possit eis esse Wainagium suum. Hoc autem verum est de illis servis, qui tenent in antiquo dominico corona.* And againe, *lib. 3. tract. 2. cap. 1. Miles & liber homo non amerciabatur nisi secundum modum delicti secundum quod delictum fuit magnum vel paruum, & salvo contemento suo: Mercator vero, non nisi salva mercandiza sua: & villanus, non nisi salvo Wainagio suo.* This in *Westm. 1. cap. 6. an. 3. Ed. prim.* is called *Gaynure*: and againe, *cap. 17.* and in *magna charta, cap. 14.* it is called *wainage*. I find it in the *old. nat. br. fol. 117.* called *Gainor. viz.* in these words: The writ of *Aile* was *precipe, &c. quod reddat unam bovatum terra, & unam bovatum marisci*: and the writ was abated for that the oxegang is alwaies of a thing that lyeth in gainor. I thinke this word was vsed of lands vsually plowed, because they that had it in occupation, had nothing of it but the profit and fruite raised of it by their owne paines, toward their suste-



nance, nor any other title, but at the Lords will. Gainor again in the same booke, fol. 12. is vsed for a Sokeman, that hath such land in his occupation. In the 32. chapter of the Grand Customarie of Normandie: *Gaigneurs* be *rusticola qui terras eleemosinatas possident*: and Britton vseth gainer, for to plow or till, fol. 65. a. & 42. b. West parte 2. *symbol. titulo, Recoveries. sect. 3.* hath these words: *Apræcipe quod reddat*, lyeth not in *Bovata marisci. 13. Ed. 3. fol. 3. nor de selione terre. Ed. 1.* for the vncertaintie: because a selion, which is a land, sometime containeth an acre, sometime halfe an acre, sometime more, and sometime lesse. It lyeth not of a garden, cotage, or croft. 14. *Affis. 13. 8. H. 63. 22. Ed. 4. 13. de virgata terra. 41. 43. 13. Ed. 3. de fodina, de minera, de mercatu. 13. E. 3.* for they bee not in demesne: but in gaine, &c. Lastly, in the statute of Distresses in the Exchequer. anno 51. H. 3. I find these words. No man of religion, nor other, shall be distreined by his beasts that gaine the land.

*Galege*, (*galica*) seemeth to come of the French, (*galloches*) which signifieth a certaine kinde of shoo worne by the *Gaules* in foule weather of old times. I find it vsed for some such imple-

ment. anno 4. Ed. 4. cap. 7. & anno 14. & 15. H. 8. cap. 9. where it is written plainely. *Galoches*.

*Galingal* (*cyperus*) is a medicinall herbe, the nature and diuersitie whereof is expressed in *Gerards herball. lib. 1. cap. 22.* The roote of this is mentioned for a drugge to be garbled. anno 1. Iaco. cap. 19.

*Gallihalsens*, were a kind of coine forbidden by the statute. anno 3. H. 5. cap. 1.

*Galloches*. See *Galege*.

*Gals*, (*Galla*) be a kind of hard fruite like a nutte, but rounder, growing of the tree called in latine (*galla*.) The diuers kinds and vses whereof *Gerard* expresseth in his *Herball. lib. 3. cap. 34.* This is a drugge to be garbled. anno 1. Iaco. cap. 19.

*Gaol*, (*gaola*) commeth of the French (*Geole. i. caveola*) a cage for birds, but is metaphorically vsed for a prison. Thence commeth (*Geolier*) whome we call *Gayler* or *Gaoler*.

*Garbe* (*garba*) commeth of the French (*garbe, aliàs. gerbe. i. fascis*.) It signifieth with vs, a bundle or sheafe of corne. *Charta de foresta. cap. 7.* and *garba sagittarum*, is a sheafe of arrowes. *Skene de verb. signif. verbo, Garba*.

*Garbling of bow-staues.* anno 1. R. 3. cap. 11. is the sorting or culling out the good from the bad.

bad. As garbling of spice, is nothing but to purifie it from the drosse and dust that is mixed with it. It may seeme to proceed from the Italian (*garbo*) that is, finenesse, neatnesse.

*Gard*, (*Custodia*) commeth of the French, (*garde*) being all of one signification. It signifieth in our common lawe, a custodie or care of defence: but hath diuers applications: sometimes to those that attend vpon the safetie of the Prince, called Yeomen of the Guard: sometime to such as haue the education of children vnder age, or of an Idiot: sometime to a writte touching wardshippe. Which writs are of three sorts: one called a right of guard or ward, in French, *droit de gard*, *Fitzb. nat. br. fol. 139.* the second is *eielement de gard*. *Idem fol. 139. L.* the third, is *rauiſſement de gard*. *Idem fol. 140. F. G.* See *Gardem*, see *Ward*.

*Gardein* (*Custos*) commeth of the French (*gardien*), and yet the German (*Warden*) is neare vnto it. It signifieth generally him, that hath the charge or custodie of any person or thing: but most notoriously him, that hath the education or protection of such people, as are not of sufficient discretion, to guide themselves and their owne affaires, as children and Idiots:

being indeede as largely extended, as both (*Tutor* and *Curator*) among the Civilians. For whereas *Tutor* is he, that hath the gouernment of a youth, vntill he come to 14. yeares of age, and *Curator*, he that hath the disposition and ordering of his substance afterward, vntill he attaine to 25. yeares: or that hath the charge of a franticke person during his lunacie: the common Lawyers vse but onely *Gardien* or *Gardian* for both these. And for the better vnderstanding of our English lawe in this thing, you must know, that as *tutor* is either *testamentarius*, or *à Pratore datus ex lege Atilia*, or lastly, *legitimus*: so we haue three sortes of *Gardeines* in England: one ordained by the father in his last will, another appointed by the Iudge afterward, the third cast vpon the Minor by the lawe and custome of the land. Touching the first, a man hauing goods and chatels neuer so many, may appoint a gardein to the bodie or person of his child, by his last will and testament, vntill he come to the age of fourteene yeares, and so the disposing or ordering of his substance, vntill what time he thinketh meet, and that is most commonly to the age of 21. yeares. The same may he do, if he haue lands to neuer so great a valew, so they



hold not *in capite* of the king, nor of any other Lord, by knights service. And in the former case, if the father appoint no Gardein to his child, the Ordinarie may appoint one to order his moueables and charels, vntill the age of 14. yeares: at which time he may chuse his guardian, accordingly as by the the ciuill lawe he may his *Curator*. For we hold all one rule with the Civilians in this case; and that is, *Inuito curator non datur*. And for his lands, if he hold any by copie of court rolle, commonly the Lord of the fee appointeth him a guardian, vntill he come to the age of 14. yeres, and that is one, next of kind to the Minor of that side, that can hope for least profit by his death. If he hold by charter in socage, then the next of kind on that side by which the land commeth not is the guardian: and hereupon called *guardian in socage*. And that which is said here of socage seemeth to be true likewise in *petit seergeantie*. *anno vicesimo octauo. Edwardi primi. statuto primo*. And the reason of this, *Fortescue* giueth in his booke, intitled, *A commendation of the polietique Lawes of England*, cap. 44. viz. because there might be suspicion, if the next kinsman on that side by which the land descendeth, should haue the custody

and education of the child, that for desire of his land, he might be entised to worke him some mischief. Lastly, if a man dyed seised of lands, holding by knights service, leauing his heir in minoritie, that is, vnder 21. yeares: the Lord of the fee hath, by law, the custodie both of the heire and his land, vntill he come to age. See the statute, *anno 28. Ed. prim. statut. prim*. And the reason of this, *Fortescue* likewise giueth, for that hee to whom by his tenure he oweth knights service, when he can performe it, is likeliest to traine him vp in martiall and ingenious discipline, vntill he be of abilitie. But *Polidore Virgil* in his *Chronicle lib. 16.* saith, that this was *Normanum vectigalis genus exogatum*, to helpe *Henry the third*, being oppressed much with pouertie, by reason he receiued the kingdom much wasted by the wars of his aunccestours: and therefore needing extraordinary helpe to uphold his estate: yet the 30. chapter of the Grand Customary maketh mention of this to haue bene vsed by the *Normans*; and I thinke this the truer opinion. Here it is to be obserued, whether land in knights service hold *in capite*, or of another Lord, or some of the King, and some of another. If of the king, whether of the king alone or not, all is

one. For the king in this case is guardian to the heires both person and land by his prerogative. *Stamf. prerog. cap. 1.* If he hould of a common Lord, it is either of one alone or more; if of one onely, then is he guardian of both person and lands; if of more, then the Lord of whome he houldeth by the elder tenure, is guardian of the person, and euery one of the rest hath the custodie of the land holden of him selfe. If the prioritie of the tenure cannot be discerned, then is he guardian of the person, that first happeth him. Termes of the lawe. *Stamf. ubi supra.* whom you may reade more at large: which Author *fol. 19.* maketh mention of *gardeyn in feit*, and *Gardeyn in droit*: that is, indeed, and in lawe: I take the first to be him that hath purchased, or otherwise obtained the ward of the Lord of whom the land holdeth: the second, him that hath the right by his inheritance and seignorie. *o'd. nar. br. fol. 94.* Then is there *gardeyn per cause de gard*, which is he that hath the wardship of a Minor, because he is guardian of his Lord being likewise in minoritie. *Stamf. ubi supra. fol. 15.* Of this you may reade *Skene de verb. signif. verbo Varda.* by whom you may learn great affinitie, and yet some dif-

ference betweene the lawe of Scotland, and ours in this point.

*Guardia*, is a word vsed among the Feudists, for the Latine (*custodia*;) and *guardianus seu guardo dicitur ille, cui custodia commissa est. lib. Feudo. 1. titulo. 2. & tit. 11.*

*Gardeyn of the spiritualties*, (*Custos spiritualium, vel spiritualitatis*) is he to whom the spirituall iurisdiction of any Diocesse is committed, during the vacancy of the see. *anno 25. H. 8. cap. 21.* And I take, that the *gardeyn* of the spiritualties, may be either *Gardeyn in lawe*, or *Iure Magistratus*, as the Archbishop is of any Dioces within his prouince, or guardian by delegation, as he whom the Archbishop or Vicar generall doth for the time depute.

*Gardeyn of the peace*, (*Custos pacis.*) See *Conseruator* of the peace.

*Gardeyn of the Cinque ports*, (*Guardianus quinque portuum*) is a Magistrate that hath the iurisdiction of those hauens in the east part of England, which are commonly called the Cinque ports, that is, the five hauens: who there hath all that iurisdiction, that the Admirall of England hath in places not exempt. The reason why one Magistrate should be assigned to these few hauens, seemeth



to be, because they in respect of their situation, aunciently required a more vigilant care, then other hauens, being in greater daunger of inuasion by our enemies, by reason that the sea is narrower there then in any other place. *M. Camden* in his *Britannia*, pag. 238. saith, that the *Romaines*, after they had settled themselues and their Empire here in *England*, appointed a Magistrate or gouernour ouer those East partes, whom they tearmed *Comitem litoris Saxoniciper Britanniam*, hauing another that did beare the same title on the opposire part of the sea: whose office was to strengthen the sea coasts with munition, against the outrages and robberies of the Barbarians. And farther signifieth his opinion, that this Warden of the Cinque ports, was first erected amongst vs, in imitation of that *Romaine* policie. See *Cinque ports*.

*Care*, anno 31. *Fd.* 3. cap. 8. is a course wooll full of staring haire, as such as groweth about the pefill or shankes of the sleepe.

*Garnishment*, commeth of the *French* (*Garnir. i. instruire.*) It signifieth in our common lawe, a warning giuen to one for his appearance, and that for the better furnishing of the cause and

court. For example, one is siewed for the detinew of certaine euidences or charters, and saith, that the euidences were deliuered vnto him not onely by the plaintiffe, but by another also: and therefore prayeth, that that other may be warned to pleade with the plaintiffe, whether the said conditions bee performed yea or no. And in this petition he is said to pray garnishment. New booke of Entries. fol. 211. colum. 3. *Termes of the lawe.* *Cromptons Iurisd.* fol. 211. which may be interpreted either warning of that other, or else furnishing of the court with parties sufficient, throughly to determine the cause: because vntill he appeare and ioyne, the defendant (as *Fitzb.* saith) is, as it were, out of the court. *nat. br.* fol. 106. G. and the court is not provided of all parties to the action. I am the bolder thus to interpret it, because I find *Britton* in the same mind. cap. 28. where he saith, that contracts be some naked, and *sans* garment, and some furnished, or to vse the literall signification of his word, appareled: but a naked obligation giueth no action, but by common assent. And therefore it is necessaric or needfull, that euery obligation be appareled. And an obligation ought to be appareled with these five sortes

*vincula nominavit ; & Kalendis Augusti, dedicauit. In qua festiuitate, populus illic ipsa vincula hodie osculatur.* So that this day being before called onely the Kalends of *August*, was vpon this occasion afterward termed indifferently either of the instrument that wrought this miracle, *Saint Peters day ad vincula*, or of that part of the maiden, wheron the miracle was wrought, the *Gule of August*.

*Gultwit*, seemeth to be compounded of (*Gult. i. noxa*) and *wit*, which is said by some skillfull men, to be an auncient termination of the words in the Saxon tongue, signifying nothing in it selfe, but as (*dom*) or (*hood*) and such like be in these english words (*Christendom*) and (*Manhood*) or such others: others say, and it is true, that *wit* signifieth blame or reprehension. *Gultwit* (as *Saxon* in his description of England *ca. 11.* doth interpret it) is an amends for trespass.

*Gust* (*Hospes*) is vsed by *Bracton* for a straunger or guest, that lodgeth with vs the second night: *lib. 3. tracta. 2. ca. 10.* In the lawes of *Saint Edward* set forth by *M. Lamberd*, *num. 27.* it is written *Gest*: of this see more in *Vncorbe*.

*Gumme* (*gummi*) is a certaine clammy or tough liquor that in maner of a swetic excrement,

issueth out of trees, and is hardened by the sunne. Of these ther be diuers sorts brought ouer seas, that be drugs to be garbled, as appeareth by the statute *anno 1. Iaco. ca. 19.*

*Gutter tyle*, alias *corner tyle*, is a tile made three cornerwise, especially to be laid in gutters, or at the corners of tyled houses, which you shall often see vpon douehouses at the foure corners of their rofes. *anno 17. Eduardi 4. ca. 4.*

## H A

**H** *Abeas corpus*, is a writ, the which a man indited of some trespass before Iustices of peace, or in a court of any franchise, and vpon his apprehension being laid in prison for the same, may haue out of the kings bench, thereby to remooue himselfe thither at his owne costs, and to answer the cause there, &c. *Fitzh. nat. br. fol. 250. H.* And the order is in this case, first to procure a (*Certiorari*) out of the Chaücerie directed to the said Iustices for the remoouing of the Inditemēt into the kings bench, and vpon that to procure this writ to the Skyreue, for the causing of his body to be brought at a day, *Register iudiciall. fol. 81.* where you shall finde diuers cases, wherein this writ is vsed.

*Habeas corpora*, is a writ that li-



eth for the bringing in of a Iurie, or so many of them, as refuse to come vpon the (*venire facias*) for the tryall of a cause brought to issue. *old nat. br. fol. 157.* See great diuersitie of this writ, in the table of the Register Iudiciall. *verbo, habeas corpora.* & the new booke of Entries. *verbo eodem.*

*Habendum*, is a word of forme in a deede of conueyance, to the true vnderstanding whereof you must knowe, that in euery deede of conueyance, there be 2. principall parts, the premisses, and the *habendum*. The office of the premisses is, to expresse the name of the grauntour, the grauntee, and the thing graunted or to be graunted. The office of the (*habendum*) is to limite the estate, so that the generall implication of the estate, which by construction of lawe passeth in the premisses, is by the (*habendum*) controlled and qualified. As in a lease to two persons, the (*habendum*) to one for life, the remainder to the other for life, altereth the generall implication of the ioynt tenancie in the freehold, which should passe by the premisses, if the (*Habendum*) weare not. *Cooke. vol. 2. Bucklers case. fo. 55. See Vse.*

*Habere facias seisinam*, is a writ Iudiciall, which lyeth, where a man hath recouered lands in

the kings court, directed to the Shyreue, and commaunding him to giue him seisin of the land recouered. *old nat. br. fol. 154. Termes of the lawe:* whereof see great diuersity also in the table of the Register Iudiciall, *verbo. Habere facias seisinam.* This writ is issuing sometime out of the Records of a fine executorie, directed to the Shyreue of the countie, where the land lyeth, & commanding him to giue to the Cognizee or his heires, seisin of the land, whereof the fine is leuied. which writ lyeth within the yeare after the fine, or Iudgemēt vpon 2. (*scire facias*) and may be made in diuers formes. *West. parte. 2. symb. titulo Fines. sect. 136.* There is also a writ called *Habere facias seisinam, ubi Rex habuit annum, diem, & vastum*, which is for the redeliuery of lands to the Lord of the fee, after the king hath taken his due of his lands. that was committed of felonie. *Register. orig. fol. 165.*

*Habere facias visum*, is a writ that lyeth in diuers cases, where view is to be taken of the lands or tenements in question. See *Fitzh. nat. br. in Indice. verbo. (View)* See *Bracton. li. 5. tract. 3. ca. 8. & lib. 5. parte. 2. ca. 11.* See *diem.* See the Register. Iudiciall. *fol. 1. 26, 28, 45, 49, 52.*

*Haberietus* (*Hauberietus* pan-

*nus magn. chart. ca. 25. & papilla oculi. parte. 5. ca. 22.*

*Hables*, is the plurall of the French (*hable*) signifying as much as a porte or haucn of the sea, whence ships doe set forth into other countries, and whether they doe arriue, when they returne from their voyage. This word is vsed. *anno 27. Hen. 6. cap. 3.*

*Harede deliberando alii qui habet custodiam terra*, is a writ directed to the Shyreuee, willing him to commande one hauing the body of him, that is ward to another, to deliuer him to him, whose ward he is by reason of his land. *Register. originall. fol. 161. b.*

*Harede abdueto*, is a writ that lyeth for the lord, who hauing the wardship of his tenent vnder age by right, cannot come by his body, for that he is conueyed away by another. *old. nat. br. fol. 93. See Ravishment de Gard, and Harede rapt, in Regist. orig. fol. 163.*

*Heretico comburendo*, is a writ that lyeth against him, that is an heretike. *viz.* that hauing beene once conuined of herisy by his Bishop, and hauing abiured it, afterward falleth into it againe, or into some other, and is therevpon committed to the secular power. *Fitzh. nat. br. fol. 269.*

*Haga*, is vsed as a kinde of la-

tine word for a house. I finde in an auncient booke sometime belonging to the abbey of Saint *Augustines* in *Canterbury*, that king *Stephen* sent his writ to the Shyreuee and Iustices of *Kent*, in this maner. *Stephanus Rex Anglorum vicecomiti & Iusticiariis de Kent salutem. precipio quod faciatis habere ecclesie sancti Augustini & monachis hagam suam quam Gosceoldus eis dedit, ita bene & in pace & iuste & quiete & libere, sicut eam eis dedit in morte sua coram legalibus testibus, &c.*

*Hagbut*, See *Hague* and *Haquebut*.

*Haye boote*, seemeth to be compounded (*Haye. i. Sepes*) and (*Bote. i. compensatio*) The former is french, and the second is Saxon. And although it doe fall out sometime, that our words be so compounded: yet is it rare. wherefore it may be thought peraduenture to come as well from (*Hag*) and (*boote*) which be bothe saxon words. It is vsed in our common lawe for a permission to take thorns and freeth to make or repaire hedges.

*Haife haque*, See *Hague*.

*Half merk* (*dimidia merka*) seemeth to signifie a noble. *Fitzh. nat. br. fol. 5.* where he saith that in case a writ of right be brought and the seisin of the Demaundant, or his auncester alleaged, the seisin is not traverfable by



the Defendant, but he may tender or proferre the halfe merke for the inquirie of this seisin, which is as much to say in plainer termes, that the Defendant shall not be admitted to deny, that the Demandant or his auncester, was seised of the land in question, and to proue his deniall: but that hee shal be admitted to tender halfe a merke in money, to haue an inquirie made, whether the Demandant, &c. were so seised or not. And in this signification I reade the same words in the old English *natura breuium*, fol. 26. b. viz. Know ye, that in a writ of right of *Advouzen* brought by the king, the defendant shall not proferre the halfe merke, ne iudgement finall shall be giuen against the king, &c. Wherof *Fitz. ubi supra*. *M.* giueth the reason, because in the kings case, the defendant shall bee permitted to traaverse the seisin by licence obtained of the Kings Sergeant. To this effect see *Fitz. nat. br. fol. 31. C. D. E.*

*Halfe scale*, is vsed in the Chauncerie for the sealing of Commissions vnto *Delegates*, appointed vpon any appeale in ecclesiasticall or marine causes, *an. 8. Elizab. cap. 5.*

*Halfe tongue. Sec Medietas lingue.*

*Halymote, alias, Healgemot*, is

a Court Baron. *Manwood parte prim.* of his Forest lawes. pag. 111. and the etymologic is the meeting of the tenants of one hall or maner. *M. Gwins preface to his reading*, which for the esteeme thereof, is by copies spred into many mens hands.

*Hallage*, is a fee due for cloths brought for sale to *Blackwell hal* in *London*. *Coke vol. 6. fol. 62. b.*

*Hamlet (Hameletum)* is a diminutiue of (*Ham*) which signifieth *habitationem*. *Camden. Brit. pag. 149. & 354.* The French (*hameau. i. viculus*) is also nere vnto it. *Kitchin* hath *Hamel* in the same sence. fol. 215. who also vseth *hampsel* for an ould house or cottage decayed. fol. 103. *Hamlet* (as *Stowe* vseth it in *Ed. 3.*) seemeth to be the seare of a Free holder. For there he saith, that the said king bestowed two maners and nine hamlets of land vpon the monasterie of *Westminster*, for the keeping of yearly obits for his wife *Queene Eleanor* deceased.

*Hameling of dogges*, or *hambling of dogges*, is all one with the expeditating of dogges. *Manwood parte prim.* of his Forest lawes. pag. 212. & *parte 2. cap. 16. num. 5.* where he saith, that this is the auncient terme that Foristers vsed for that mater, whence this word might be

be drawne, I dare not resolve: but it is not improbable, that *hameling* is *quasi*, *hambal-ding*, that is, keeping at home, which is done by paring their feete so, as they cannot take any great delight in running a-broade. See *Expeditate*.

*Hampsell*. See *Hamlet*.

*Hamsfoken*, see *Homesfoken*. *M. Skene de verb. significat*: writeth it *Hainsfoken*, and deriueith it from (*Haine*) a German word, signifying a house or dwelling, and (*Suchen*) that is to seeke, search, or persiew. It is vsed in Scotland for the crime of him, that violently, and contrary to the kings peace, assaulteth a man in his owne house; which (as he saith) is punishable equally with rauishing of a woman. *significat quietantiam misericordie intrationis in alienam domum vi & iniuste*. *Fleta. lib. pri. cap. 47*. See *Homesfoken*.

*Hand in and Hand out*. anno 17. *Ed. 4. cap. 2*. is the name of an vnlawful game.

*Hand full*, is foure inches by the standard. anno 33. *H. 8. cap. 5. &c.*

*Hankwit aliàs* (*Hangwit*) or (*Hengwit*) commeth of the Saxon words (*Hangen* .i. pendere) and (*wit*) whereof reade in *Gulth-wit*: *Rastall* in the title, Exposition of words saith, it is a liberty graunted vnto a man, wherby

he is quit of a felon or theefe hanged without iudgement, or escaped out of custodie. I reade it interpreted, *multa pro homine iniuste suspense*. Or whether it may be a libertie, whereby a Lord chalengeth the forfeiture due for him, that fordoeth himselfe within his fee or not, let the Reader consider. See *Blood-wit*.

*Hanper*, (*hanperium*) *hanper* of the *Chauncerie*. anno 10. *R. 2. cap. prim.* seemeth to signifie as *fiscus* originally doth in Latine. See *Clerke of the Hanaper*.

*Hanse*, (as *Ortelius* in the Index of his Additament to his *Theater, verb. Asiatici*. saith,) is an old *Gothish* word. Where he sheweth not the interpretation. It signifieth a certaine societie of Merchants, combined together for the good vsage and safe passage of merchandies from kingdome to kingdome. This societie was, and (in part) yet is, endued with many large priuiledges of princes, respectiue within their territories. It had foure principall seates, or staples: where the *Almaine* or *Dutch Merchants* being the erectours of this societie, had an especiall house, one of which was here in *London*, called *Gild-halda Teutonicorum*, or in our common language, the *Steelyard*. Of this you may reade more in



the place of *Ortelius* aboue mentioned.

*Happe*, commeth of the french (*Happer* i. *rapio*, cum *quadam* *velocitate* *capiō*) and the french seemeth to come from the greeke *απαγωγ*. It signifieth in our common lawe the same thing: as to *happe* the possession of a deede poll. *Littleton* fol. 8.

*Haque*, is a handgunne of about three quarters of a yard long, *anno*. 33. H. 8. ca. 6. & a. 2. et. 3. *Ed*. 6. ca. 14. There is also the halfe haque or demy hake. See *Haquebut*.

*Haquebut*, is that peece of artillery or gunne, which we otherwise call an harquebuse, being both french words. *anno*. 2. & 3. *Ed*. 6. ca. 14. & *anno* 4. & 5. *Ph*. & *Mu*. ca. 2.

*Hariot*, *alias*, *Heriot* (*heriotum*) is the saxon (*heregeat*) a litle altered, which is drawn from (*here* i. *exercitus*) and a (*heriot*) in our Saxons time signified a tribute giuen to the lord for his better preparation toward war. *Lamb*. in his expl. of Saxon words. *verbo*. *hereotum*. The name is still retained, but the vse altered: for whereas, by *M. Lamb*. opinion *ubi supra*, it did signifie so much as Reliefe doth now with vs: now it is taken for the best chatell that a tenent hath at the houre of his death, due vnto the lord by custome, be

it horse, ox, kettle, or any such like. *M. Kitchen* distinguisheth betweene *heriot* seruice and *heriot* custome. fol. 133. & 134. for interpretation whereof, you shall finde these words in *Brooke. titulo* *hariot. res*. 5. *Hariot* after the death of the tenent for life, is *hariot* custome. For *hariot* seruice is after the death of tenent in fee-simple. The new Expounder of the lawe termes saith, that *hariot* seruice (in some mans opinion) is often expressed in a mans graunt or deed, that hee holdeth by such seruice to pay *hariot* at the time of his death, that holdeth in fee simple. *Hariot* custome is, where *hariots* haue bin payed time out of mind by custome. And this may be after the death of the tenent for life. See *Plowden*. fol. 95. b. 69. a. b. *Bracton* saith, that *heriotum*, est *quasi Relenium*. lib. 2. cap. 36. See *Reliefe*. But *Britton*. cap. 69. saith, that *heriot* is a reward made by the death of a tenent, to any Lorde, of the best beaste found in the possession of the tenent deceased, or of some other according to the ordinance or assignement of the party deceased, to the vse of his Lord. which reward toucheth not the Lord at all, nor the heire, nor his inheritance, neither hath any comparision to a Reliefe: for it proceedeth rather of grace or good-

goodwill then of right, and rather from villeins then free men. See *Dyer, fol. 199. nu. 58.* to the same effect. This in Scotland is called *Herrezelda*, compounded of *herr. i. dominus, herus.* and *zeld. i. gift.* *Skene de verbo. signif. verbo Herrezelda.*

*Hart*, is a stagge of 5. yeares old compleate. *Manwood parte 2. of his forest lawes. cap. 4. nu. 5.* which he hath out of *Budens de philologia. li. 2.* And if the King or Queene doe hunt him, and he escape away aliue, then afterward he is called a *Hart royall*. And if the beast by the Kings or Queenes hunting be chased out of the forest and so escape: proclamation is commonly made in the places there about, that in regard of the pastime, that the beast hath shewed to the King or Queene, none shall hurt him, or hinder him from returning to the forest; and then is he a *Hart royall* proclaimed. *Idem. eodem.*

*Hauberk*, commeth of the French (*Haubert. i. lorica*) whereupon he that holdeth land in France by finding a coate or shirt of mayle, and to be readie with it, when he shall be called, is said to haue *Hauberticum feudum*. whereof *Hotoman* writeth thus: *Hauberticum feudum gallicâ lingua vulgò dicitur pro (lorica-tum). i. datum vasallo ea condi-*

*one, ut ad edictum loricatorum sine cataphractis praestio sit. Nam ut lorica latinis proprie & minus usitate est tegmen de loro factum, quo maiores in bello utebantur, quemadmodum Servus Honoratus scribit in libro Aeneidis 11. frequentissime autem pro aenea armatura integra usurpatur. sic apud Gallos Haubert proprie lorica annulis contextam significat, quam vulgus Cotte de maille appellat. Hac Hot. in verbis feudal. verbo Hauberticum feudum. Hauberk with our awnce - sters seemeth to signifie, as in France, a shirt or coate of mayle and so it seemeth to be vsed, anno 13. Ed. pri stat. 3. ca. 6. Though in these daies the word is otherwise written as (*Halbert*) and signifieth a weapon well enough knowne.*

*Haward* alias *Hayward*, seemeth to be compounded of two french word (*Hay. i. sepes*) & *Garde. i. custodia*) It signifieth with vs, one that keepeth the common heard of the towne: & the reason may be, because one part of his office is to looke that they neither breake nor croppe the hedges of inclosed grounds. It may likewise come from the german (*berd. i. armentu & (bewarren. i. custodire)*). He is a sworne officer in the Lords court: and the forme of his oath you may see in *Kitchin. fol. 46.*



*Hawkers*, be certaine deceitfull felowes, that goe from place to place, buying & selling, brasle, pewter, and other merchandise, that ought to be vitered in open market. The appellation seemeth to growe from their vncertaine wandering, like those that with hawkes seeke their game, where they can finde it. You finde the word. *anno. 25. H. 8. ca. 6. & anno 33. eiusdem. cap. quarto.*

*Headborow*, is compounded of two words: (*Heofod. i. caput*) and (*Bor-be. i. pignus*) It signifieth him, that is cheife of the franckpledge: and him that had the principall gouernment of them within his owne pledge. And as he was called *Headborowe*, so was he also called *Borowhead*, *Bursholder*, *Thirdborow*, *Tithing man*, *Cheife pledge*, or *Borowelder*, according to the diuersitie of ipeach in diuers places. Of this see *M. Lamberd* in his explication of Saxon words. *verbo Centuria.* and in his treatise of Constables. and *Smith de Repub. Anglo. lib. 2. cap. 22.* It nowe signifieth Constable. See *Constable*.

*Healfang*, is compounded of two Saxon words (*Hals. i. collū*) and (*fang. i. capere, capere*). See *Pylorie*.

*Heire* (*Heres*) though, for the word, it be borrowed of the latine; yet, it hath not altogether

the same signification with *vs*, that it hath with the *Civilians*, for whereas they call him (*heredem*) *qui ex testamento succedit in vniuersum ius testatoris*: the common lawyers call him *heire*, that succeedeth by right of blood, in any mans lands or tenements in fee, for there is nothing passeth with *vs iure hereditatis*, but onely fee. *Moueables*, or *chattels* *immoveable*, are given by testament, to whom the tellator listeth, or else are at the disposition of the *Ordinarie*, to be distributed as he in conscience thinketh meete, *Gloss. in Provinciali constitut. Ita quorundam. De testamentis. verbo. Ab intestato.* And whether a man enioy *moveable goods* and *chattels*, by will or the discretion of the *Ordinarie*, he is not with *vs* called an *heire*: but onely he that succeedeth either by testament, or right of blood in fee. *Cassanau in consuetud. Burg. pag. 909.* hath a distinction of *heres*, which in some sort well accordeth with our lawe: For he saith, there is *heres sanguinis*, & *hereditatis*. And a man may be *heres sanguinis* with *vs*, that is, *heire* apparent to his father, or other auncester: and yet may vpon displeasure, or meere will be defeated of his inheritance, or at the least, the greatest part thereof.

*Heyre loome*, seemeth to bee com-

compounded of (*heire*) and (*loome*) that is, a frame, namely to weaue in. The word by time is drawne to a more generall signification, then at the first it did beare, comprehending all implements of household, as namely, tables, presses, cupbords, bedstedes, wainscots, and such like, which by the custome of some countries, hauing belonged to a house certaine descents, are neuer inventaried after the decease of the owner, as chatels, but accrew to the heyre with the house it selfe. This word is twice metaphorically vsed in that diuine speech, made by that most worthy & complete noble man the Earle of Northampton, against that hellish, vgly, and damnable treason of gunpowder, plotted to consume the most vertuous King that euer raigned in Europe, together with his gracious Queene, and pretious posteritie, as also the three honorable estates of this renowned kingdome.

*Heck*, is the name of an Engine, to take fish in the river of *Ouse* by *Torke*. anno 23. *H. 8.* cap. 18.

*Heinsare*, alias, *hinefare*, (*discessio famuli a domino*) the word is compounded of (*hine*) a seruant, and (*fare*) an old English word, signifying a passage.

*Henchman*, or *heinsman*, is a

German word signifying (*domeesticum, aut unum de familia.*) It is vsed with *vs*, for one that runneth on foote attending vpon a man of honour or worship. anno 3. *Ed. 4. cap. 5. anno 24. Henric. 8. cap. 13.*

*Hengrite*, significat quietantiã misericordiã de latrone suspensio absque consideratione. *Fleta lib. prim. cap. 47.* See *Hankwit*.

*Herauld*, (*heraldus*) is borrowed by *vs* of the French (*herault*) and in *M. Verstegans* iudgement proceedeth originally from two Dutch words (*here. i. exercitus*) and (*healt. i. pugil magnanimus,*) as if he should be called (the Champion of the armie) hauing by especiall office to challenge vnto battell or combate. With *vs* it signifieth an officer at armes, whose function is to denounce warre, to proclaime peace, or otherwise to be employed by the King in martiall messages or other businesse. The *Romaines* called them plurally (*Feciales.*) *M. Stow* in his *Annals* deriueth them from *heroes*. pag. 12. which hee hath from other that writ of that subiect, whose coniecture I leaue to the reader. Their office with *vs*, is described by *Polydore. lib. 19.* in this sort: Speaking of the knights of the Garter, hee saith: *habent in super Apparitores ministros, quos heraldos dicunt: quorum prefectus armorum Rex vocat.*



*tarur: hy belli & pacis nunciu. Ducibus, Comitibusq; à Rege factis insignia aptant, ac eorum funera curant.* He might haue added farther, that they be the Iudges and examiners of gentlemens armes, that they marshall all the solemnities at the coronations of princes, manage combats, and such like. There is also one and the same vse of them with vs, and with the French nation, whence we haue their name. And what their office is with them, see *Lupanus lib. prim. de Magist. Francorum, ca. Heraldici.* There be diuers of them with vs: whereof three being the chiefe, are called Kings at armes. And of them *Garter* is the principall, instituted and created by *Henry* the fifth. *Stowes annals. pag. 584.* whose office is to attend the knights of the *Garter* at their solemnities, and to marshall the solemnities of the funerals of all the greater nobility, as of *Princes, Dukes, Marquises, Earles, Viscounts, and Barons*, yet I finde in *Plowden, casu Reniger, & Fogassa*, that *Ed.* the fourth graunted the office of the king of *Heralds*, to one *Garter cum feudis & proficiis ab antiquo, &c. fol. 12. b.* The next is *Clarentius*, ordained by *Edward* the fourth. for he attaining the *Dukedome* of *Clarence* by the death of *George* his brother, whom he beheaded for

aspiring to the crowne, made the *Herald*, which properly belonged to the *Duke* of *Clarence*, a King at armes, and called him *Clarentius*. His proper office is, to marshall and dispose the funerals of all the lesser nobility, as knights, and Esquires, through the Realme of the south side of *Trent*. The third is *Norroy*, or *Northroy*, whose office is the same on the north side of *Trent*, that *Clarentius* hath on this side, as may well appeare by his name, signifying the northern king, or king of the north parts. Beside these, there be sixe other properly called *Heralds* according to their originall, as they were created to attend *Dukes, &c.* in marshall executions. *viz. York, Lancaster, Somerset, Richemond, Chester, Windesour.* Lastly there be foure other called marshals or pourswivants at armes, reckoned after a sort, in the number of *Heralds*, and doe commonly succede in the place of the *Heralds* as they dye, or be preferred: and those be *Blow Mantle, Rouge-crosse, Rouge dragon, and Percullio*. The (*feciales*) among the Romans were priests, Nam *Numa Pompilius* diuini cultus institutionem in octo partes diuisit, & ita etiam sacerdotum octo ordines constituit, &c. Septimā partem sacra constitutionis collegio eorum adiecit, qui *Feciales* vocantur. Erant autem ex optimis

*optimis domibus viri electi, per omne ipsi vita tempus sacrati, quorum paries in eo versabantur, ut fidei publica inter populos praessent: neq;ustum aliquod bellum fore censebatur: nisi id per Feciales esset inditum. Qui ut Festus ait, a faciendo, quod belli pacisque faciendis apud eos ius esset, Feciales dicti sunt. Corauius miscel. iuris ciui. li. 1. ca. 10. nu. 12.*

**Herbage** (*herbagium*) is a french word, and signifieth in our common lawe, the fruit of the earth prouided by nature for the bitte or mouth of the catell. But it is most commonly vsed for a liberty that a man hath to feede his catell in another mans ground, as in the forest, &c. *Cromptons Iurisdiction. fol. 197.*

**Herbenger** commeth of the french (*Heberger*) or (*Esberger*) (*hesberger*) .i. *hospitio excipere*. It signifieth with vs, an officer of the princes court, that allotteth the noble men, and those of the household their lodgings. It signifieth also in *Kitchin*, an Inkeeper. *fol. 176.*

**Heredaments** (*hereditamenta*) seeme to signifie all such things immoueable, be they corporeall or incorporeall, as a man may haue to himselfe and his heires, by way of inheritance. *v. anno 22. H. 8. ca. 2.* or not being otherwise bequeathed, doe naturally and of course descend to

him which is our next heire of blood, and fall not within the compas of an executour, or administratour, as chatels doe.

**Heriot.** See *Harior*.

**Hide of land** (*Hida terra*) *Saxonice* (*Hidelandes*) is a certaine measure or quantitie of land, by some mens opinion, that may be plowed with one plowe in a yeare: as the author of the newe *Termes* saith, *verbo Hidage*. by other men, it is an hundred acres. By *Beda* (who calleth it *familiā*) it is as much as will maintaine a familie. *Crompton in his Iurisdiction. fol. 220.* saith, that it consisteth of an hundred acres: euery acre in length 40. perches, and in breadth 4. perches, everie perch 16. foote and a halfe, and againe, *fol. 222.* A hide of land containeth an hundred acres, & 8. hides or 800. acres, containe a knights fee. Of this reade more in *M. Lamberds Explica: of Saxon wordes, verbo Hyda terra*. See *Carue*.

**Hide and gaine.** *o'd. nat. br. fol. 71. Coke. lib. 4. Tirringhams case.* signifieth earable land. See *Gaignage*.

**Hidage** (*Hidagium*) is an extraordinarie taxe, to be paide for euery hide of land, *Bracton li. 2. c. 6.* writeth thus of it: *Sunt etiam quaedam communes praestationes. quae seruitia non dicuntur, nec de consuetudine veniunt nisi cum necessitas in-*



*ter venerit, vel cum Rex venerit: sicut sunt Hidagia, Coragia, & Carvagia: & alia plura de necessitate & ex consensu communi totius Regni introducta, & que ad Dominum feudi non pertinent, &c.* of this reade the new expounder of lawe termes, who saith that hidage is to be quit, if the king shall taxe all the lands by hides, and yet also graunteth it to be the taxe it selfe, saying that it was wont to be an vsuall kind of taxing as well for prouision of armour, as payments of money.

*Hinefare.* See *Heinfare*.

*Hidel.* i. H. 7. ca. 6. seemeth to signifie a place of protection, as a Sanctuarie.

*Hierlome.* See *Fleirlome*.

*Hine*, seemeth to be vsed for a Seruant at husbandrie and the master hine a seruant that ouerseeth the rest. anno. 12. R. 2. ca. quarto.

*Hoblers* (*Hobellarii*) are certaine men, that by their tenure are tyed to maintaine a little light nagge, for the certifiing of any inuasion made by enemies, or such like perill toward the Sea side, as *Porchmouth*, &c. of these you shall reade. anno 18. Ed. 3. stat. 2. cap. 7. & anno 25. eiusdem. stat. 5. ca. 8.

*Hoghenhine*, is he that cometh guestwise to a house, and

lieth there the third night. After which time he is accounted of his familie in whose house he lieth: and if he offend the kings peace, his host must be answerable for him. *Bracton lib. 3. tra. 2. cap. 10.* In the lawes of King Edward set forth by *M. Lamberd*, he is called *agenhine*. where you may reade more of this mater.

*Hube* (*Hirba*) is a petit hauen to land wares out of vessels or boates. new booke of Entrise. fol. 3. colum. 3.

*Hoggeshead*, is a measure of wine or oyle containing the fourth parte of a tunne. that is 63. gallons. anno. 1. R. 3. ca. 13.

*Hoisfings.* See *Hustings*.

*Homage* (*Homagium*) is a french word, signifiing (*fidem clientularem*.) for in the originall grants of land and tenements by way of fee, the lord did not onely tie his tenents or feed men to certaine seruices: but also tooke a submission with promis and oathe, to be true and loyall to him, as there lord & benefactor. This submission was and is called homage: the forme whereof you haue in the second statute anni. 17. Ed. 2. in these words: when a free man shall doe homage to his Lord, of whome he holdeth in chiefe: he shall hold his hands together betweene the hands of his lord, and shall say

say thus : I become your man from this day forth for life, for member, & for wordly honour, and shall owe you my faith for the land I hold of you: saving the faith, that I doe owe vnto our Soueraigne Lord the king, and to mine other Lords. And in this maner the Lord of the fee, for which homage is due, taketh homage of euery tenant, as he cometh to the land or fee. *Glanuile. lib. 9. ca. 1.* except they be women, who performe not homage but by their husbands, (yet see *Fuzherbert.* that saith the contrary in his *natura br. fol. 157. F.*) Reade *Glanuile* more at large in the said first chapter, with the second, third & fourth; The reason of this *M. Skene* giueth *de verbo. significacione, verbo Homagium. viz.* because Homage especially concerneth seruice in warre. He saith also, that consecrated Bishops, doe no homage, but onely fidelitie: the reason may be all one. And yet I find in the *Register. orig. fol. 296. a.* that a woman taking liuerie of lands holden by knights seruice, must doe homage, but not being ioyntly infeoffed, for then shee doth only fealtie. And see *Glanuile* in the ende of the first chapter of his ninth booke touching Bishops consecrated, whome he denieth to performe homage to the king for their Baronie, but

onely fealty. *Fulbeck* reconcileth this, *fol. 20. a.* in these words. By our lawe a religious man may doe homage, but may not say to his Lord. *Ego devenio homo vester*, because he hath professed himselfe to be onely Gods man, but he may say, I doe vnto you homage, and to you shall be faithfull & loyall. See of this *Britton. cap. 68.* Homage, is either new with the fee, or auncestrell: that is, wheare a man and his auncesters, time out of minde, haue held their lands by homage to their Lord, whereby the Lord is tied to warrant the land vnto his tenant. *newe Termes of the lawe.* This homage is vsed in other countries as well as ours, & was wont to be called *Hominium*. See *Hotom. de verbis feudaliibus, verbo. Homo.* Skene diuiderh it into *liegium & non liegium. de verb. signifi. verbo Homage.* for the which see *Leige*, and *Hotoman, disputatione de feudis terra.* Homage is sometime vsed for the Iurie in the Courte Baron, *Smith de Repub. Anglo. lib. 2. cap. 27.* The reason is, because it consisteth most commonly of such, as owe homage vnto the Lord of the fee. And these of the Feudists are called *pares curie, siue curtis, siue domus, sic dicuntur enim comassalli siue compares, qui ab eodem patrono feudum receperunt, vel qui in eodem territorio feudum*



*habent. Hotoman.* Of this homage you may read in the 29. c. of the *Grand Customarie of Normandie*, where you shall vnderstand of other sorts of homage vsed by them, & straunge vnto vs, whereunto ioyne *Hotoman. disputat. de feudis*, in diuers places & namely *columna 860. C. his verbis. Deinceps de nota hominis & feudalitatis subiectionis videamus. Omnium quidem video esse commune, ut dexteris tanquam in foederibus iungerent: plerumq; etiam ut dexteris avertis, osculum praberent, interdum, ut ambas manus iunctas patrono contrectandas praberent: supplicum & dedititiorum nomine, qui velatas manus porrigebant.* and pag. 861. *his verbis. Multis Gallie atq; etiam Anglie moribus constitutum est (Quod ex Anglico Liletorio intelleximus) ut hominum seruili & supplici veneratione, ac plane tanquam a dedititiis prestetur. Nam vasallus discinctus, nudo capite, ad pedes sedentis patroni proiectus, ambas manus iunctas porrigit: quas dum Dominus suis manibus amplectitur, hac verba pronunciat. Here, venio in tuum hominum & fidem, & homotuus sis ore & manibus; tibiq; iuro ac spondeo fidelem me tibi futurum eorum feudorum nomine, qua tuo beneficio accepi, &c.* Whereunto you may adde him, *column. 819. G. 822. F. & 857. B. & D. & F.* Of homage in Scotland, reade *M. Skene, de verb. signif.*

*verbo Homagium.* to whome you may also ioyne a plentifull discourse in *speculo Durandi.* commonly called (*speculator*) among the Civilians, *titulo De Feudis.*

*Homagio respectuando*, is a writ to the Escheatour commaunding him to deliuer seisin of lands to the heire, that is at full age, notwithstanding his homage not done, which ought to be performed before the heire haue liuerie of his lands, except there fall out some reasonable cause to hinder it. *Fitzh. nat. br. fol. 269.*

*Homine eligendo ad custodiendam peciam sigilli pro Mercatoribus aditi*, is a writ directed to a corporation, for the choice of a new man to keepe the one part of the seale, appointed for statutes Merchant, when the other is dead, according to the statute of *Alton Burnel. Register. orig. fol. 178. a.*

*Homine replegiando*, is a writ for the bayle of a man out of prison: which, in what cases it lyeth, and what not, See *Fitz. nat. br. fol. 66.* See also the *Register orig. fol. 77.* See the new booke of Entries. *verb. Homine replegiando.*

*Homine capto in W. Iherbarnium*, is a writ to take him, that hath taken any bondman or woman, and led him or her out of the countie, so that he or she can-

not be repleuied according to lawe. *Register orig. fol. 79.a. See Withernam.*

*Homicide* (*homicidium*) is the slaying of a man: and it is diuided into voluntarie, or casuall: homicide voluntarie is that, which is deliberated, and committed of a set mind, and purpose to kill: homicide volutary, is either with precedent malice, or without. The former is murder, and is the felonious killing through malice prepenſed of any person lining in this realme vnder the Kings protection. *West. part. 2. simbol. tit. Inditment. sect: 37. & c. vsque ad 51.* where you may see diuers subdiuisions of this mater. See also *Glanuile. lib 14. cap. 3. Bract. l. 3. tra. 2. c. 4. 15. & 17. Brit. c. 5. 6. 7. See Muder. Mans slaughter & Chaunce medley.*

*Homesoken*, alias *Hamsoken* (*Hamsoca*) is compounded of (*Ham. i. habitatio*) and (*Soken. i. querere*). It is by *Bracton. lib. 3. tract. 2. c. 23.* thus defined. *Homesoken dicitur inuasio domus contra pacem Domini Regis.* It appeareth by *Rastall* in the title. Exposition of words: that in auntient times some men had an immunitie to doe this: for he defineth *Homesoken* to be an immunitie from ameracements for entring into houses violently, and without licence. which thing seemeth so vnrasonable, that me thin-

keth he should be deceiued in that his exposition. I would rather thinke it should be a libertie, or power graunted by the king to some common person, for the cognisance or punishment of such a transgression. for so I haue seene it interpreted in an old note that I haue giuen me by a freind, which he had of an expert man toward the Exchequer, but of what authoritie I know not. See *Hamsoken*.

*Hondhabend*, is compounded of two Saxon words (*Hond. i. hand*, and *habend. i. hauing*) and signifieth a circumstance of manifest theft, when one is deprehended with the thing stolen in his hand. *Bracton. lib. 3. tract. 2. ca. 31. & 54.* who also vse the (*handberend*) for the same, *codem cap. 8.*

*Honour* (*honor*) is, beside the generall signification, vsed specially for the more noble sort of seigneuries: whereof other inferior Lordships, or maners doe depend by performance of customes and seruices, some or other, to those that are Lords of them. And I haue reason to think that none are honours originally, but such as are belonging to the King. How be it they may afterward be bestowed in fee vpon other nobles. The maner of creating these honours may in part be gathered out of the statutes



anno 31. H. 8. cap. 5. where Hampton court is made an honour. and anno 33. eiusdem. cap. 37. & 38. whereby Ampill and Grafton be likewise made honours. and anno 37. eiusdem. ca. 18. whereby the King hath power given by his letters patents, to erect foure seuerall honours. Of Westminster, of Kingston vpon Hull, Saint Osithes in Essex, and Dodington in Berkehire. This word is also vied in the selfe same signification in other nations. See *ca. licet causam. extra de probationibus.* and Minsinger vpon it. nu. 4. In reading I haue obserued thus many honours in England: The honour of Aquila. Camden. Britan. pag. 231. of Clare. pag. 351. of Lancaster. pag. 581. of Tickhill. pag. 531. of Wallingford, Nottingham, Boloine. Magna charta. cap. 31. of West Greenewish, Camd. pag. 239. of Bedford. pupl. oculi. parte. 5. cap. 22. of Barthimsted. Brooke, titulo Tenure. nu. 16. of Hwittam. Camd pag. 333. of Plimpton. Cromptons Iurisd. fol. 115. of Creneoure, and Hagenet Fobert. anno 32. H. 8. cap. 48. of East Greenewish. of Windsour in Berkehire, and of Bealew in Essex. anno 37. H. 8. ca. 18. of Peverell in the county of Lincolne. Register orig. fol. 1.

Horngeld, is compounded of Horn and Gild or Gelder. Sol-

uere. It signifieth a taxe within the forest to be paid for horned beasts. Cromptons Iurisd. fol. 197. And to be free thereof, is a priuiledge graunted by the king vnto such as he think eth good. Idem, ibidem. and Rastall in his exposition of words.

Hors de son fee, is an exception to auoide an action brought for rent, issuing out of certaine land by him that pretendeth to be the Lord, or for some customes and seruices. for if he can iustifie that the land is without the compas of his fee, the action falleth. v. Brooke. hoc titulo.

Hospitallers (Hospitalarii) were certaine knights of an order, so called, because they had the care of hospitals, wherein Pilgrims were receiued. to these Pope Clement the fift transferred the Templers, which order, by a counsell held at Vienna in Fraunce, he suppressed for their many and great offences, as he pretended. These Hospitallers be now the knights of Saint Iohn of Malta. C. ssan. gloria mundi. parte. 9. considerat. 5. This constitution was also obeyed in Ed. the 2. time here in England, and confirmed by Parliament. Thome Walsingham. in historia. Ed. 2. Stones annals. ibidem. These are mentioned anno 13. Ed. the 4. 43. & anno 9. H. 3. ca. 37.

Hospe-

*Hostelers* (*Hostellarius*) com-  
meth of the french (*Hosteler*.i.  
*Hofles*) and signifieth with vs,  
those that otherwise we call In-  
keepers, *an. 9. Ed. 3. stat. 2. c. 11.*

*Hotchepot* (*in partem positio*) is  
a word that commeth out of  
the lowecountries, where (*Hut-  
spot*) signifieth flesh cut into pretie  
peeces, and sodden with herbs  
or roots, not vnlike that which  
the Romans called *farraginem*.  
*Festus*. *Littleton* saith that literally  
it signifieth a pudding mixed  
of diuers ingredients: but me-  
taphorically a commixtion or  
putting together of lands, for  
the equall diuision of them be-  
ing so put together. Examples  
you haue diuers in him. *fo. 55.* and  
see *Briton*, *fol. 119.* There is in  
the Ciuile law *collatio bonorum*  
answerable vnto it, whereby if  
a child aduanced by the father  
in his life time, doe after his fa-  
ther decease, challenge a childs  
part with the rest, he must cast in  
all that formerly he had receiued,  
and then take out an equall  
share with the others. *De colla-  
tio: bonorum. 1. lib. 37. titulo. 6.*

*Housebote*, is compounded of  
*House*, and *Bote*.i. *compensatio*. It  
signifieth estovers out of the  
Lords woode to vphould a te-  
nement or house.

*House robbing*, is the robbing  
of a man in some part of his  
house, or his booth, or tēt in any

faire or market, and the owner,  
or his wife, children, or seruants,  
being within the same. for this  
is felonie by *anno. 23. H. 8. cap. 1.*  
and. *anno. 3. Ed. 6. cap. 9.* yea, now  
it is felonie though none be  
within the house. *anno. 39. Eliz.  
ca. 15.* See *Burglarie*. see *West.*  
*part. 2. sym. tit. Inditemēts, sect. 67.*

*Hudegeld*, significat *quietantiam*  
*transgressionis illatae in seruum*  
*transgredientem*. *Fleta lib. 1. ca. 47.*  
*Quere* whether it should not  
be *Hindegeld*.

*Hue*, and *Crie* (*Hutesum &  
Clamor*) come of 2. french  
words: (*Huier*) and (*Crier*) both  
signifying to shoute or cry a  
loude. *M. Mannwood, parte. 2. of*  
*his forest lawes. ca. 19. nu. 11.*  
saith, that *Hew* is *latine*, meaning  
belike the *Interiection*: but vnder  
reformation, I think he is decei-  
ued; this signifieth a pursuite of  
one hauing committed felonie  
by the high way, for if the party  
robbed, or any in the companie  
of one murdered or robbed,  
come to the *Constable* of the  
next towne, and will him to raise  
*Hiew* and *Crie*, or to make pur-  
suite after the offēdour, describ-  
ing the partie, and shewing as  
neere as he can, which way he is  
gone: the *Constable* ought forth-  
with to call vpon the parishe  
for aide in seeking the felon:  
and if he be not found there,  
then to giue the next *Constable*



warning, and he the next, vntill the offender be apprehended, or at the least, vntill he be thus persued to the sea side. Of this reade *Bracton. lib. 3. tracta. 2. ca. 5. Smith de Repub. Anglo. lib. 2. cap. 20.* and the statute anno. 13. Ed. 1. statute of Winchest. c. 3. & a. 28. Ed. 3. c. 11. & anno. 27. El. c. 13. The Normans had such a persuite with a Crie after offenders as this is, which they called *Harro*: whereof you may reade the *Grand Custumarie, cap. 54.* Some call it *Harol*: the reason whereof they giue to be this, that there was a Duke of Normandy called *Rol*, a man of great iustice and seruerity against grieuous offenders: and that thereupon when they follow any in this persuite, they crie *Ha-Rol*, as if they should say, *Ab Rol* where art thou that wert wont to redresse this, or what wouldst thou doe against these wretches, if thou now wert liuing. But in truth I thinke it commeth, from *Harier. i. flagitare, inquietare, urgere.* Hue is vsed alone. anno 4. Ed. pri. Stat. 2. This the Scots call *Huesum* and *M. Skene de verbo. signif. verb. Huesum*, saith, that it commeth of the french *Oyes. i. Audite.* making one etymologie of this and the crie vsed before a proclamation, The maner of their hue and cry, as he there describeth it, is that if a robberie be done, a horne

is blowne, and an out crie made: after which, if the partie flie away, and not yeeld himselfe to the Kings Bayliffe, he may be lawfully slaine, and hanged vp vpon the next gallowes. Of this Hue and crie, see *Cromptons In-stice of peace. fol. 160. b.*

*Huissers. See Vshers.*

*Hundred (Hundredum)* is a part of a shire, so called originally, because it contained ten tithings called in latine *Decennas*. These were first ordeined by king *Alfred* the 29. king of the West Saxons. *Stowes Annals pag. 105.* of these thus speaketh *M. Lamb. in his explicat. of Saxon words. verbo, Centuria: Aluredus rex, ubi cum Guthbrano Daco foedus inierat, prudentissimum illud olim a Ierrone Moysi datum secutus consilium, Angliam primus in satrapias, Centurias, & Decurias, partitus est. Satrapiam, shire a shyran (quod partiri significat) nominavit: Centuriam, Hundred: & Decuriā, Tothing sine Tienmanale. i. Decemvirale collegium appellavit: atq; iisdem nominibus vel hodie vocantur, &c.* And againe afterward: *Decreuit tum porro Aluredus libera ut conditionis quisq; in Centuriam ascriberetur aliquam, atq; in Decemvirale aliquod coniceretur collegium. De minoribus negotiis Decuriones vniudicarent: ac si quae esset res difficilior, ad Centuriam deferrent: difficilimas deniq; & maximi momenti* lites,

*lites, Senator & prepositus in frequenti illo ex omni satrapia conveniunt componerent. Modus autem iudicandi quis fuerit, Ethelredus Rex, legum, quas frequenti apud Anglorum senatu sancivit, capite 4. his fere verbis exponit. In singulis centuriis comitia sunt, atq; libere conditionis viri duodeni, etate superiores, una cum preposito, sacra tenentes iuranto, se adeo virum aliquem innocentem haud damnaturos sententiae absoluturos.* This forme of diuiding counties into Hundreds for beter gouernment, howsoeuer it is attributed to King *Alfred* here with vs: yet he had it from Germanie, whence he and his came hither. For there *centa* or *centena* is a iurisdiction ouer a hundred townes, and conteineth the punishment of capitall crimes. *Andreas Kitchin. in his tractate, de sublimi & regio territorii iure. ca. 4. pa. 123.* where he also sheweth out of *Tacitus, de situ & moribus Germa.* that this diuision was vsuall amongst the Germans before his daies. By this you vnderstand the original and old vse of Hundreds, which hold still in name, and remaine in some sort of combination, for their seuerall seruices in diuers respects, but their iurisdiction is abolished, and growne to the countie court, some few excepted, which haue bene by pri-

uiledge annexed to the crowne, or graunted vnto some great subiect, and so remaine still in the nature of a Fraunchise. And this hath bene euer sithence the *stat. anno 14. Ed. 3. stat. 1. ca. 9.* whereby these Hundred courts formerly fermed out by the Shyreue to other men, were reduced all, or the most part, to to the countie court, and so haue and doe remaine at this present. So that where you read now of any hundred courts, you must know, that they be seuerall fraunchises, wherein the Shyreue hath not to **deale** by his ordinarie authoritie, except they of the Hundred refuse to doe their office. See *West. parte. 1. symbol. lib. 2. sect. 288. Sec. Turn.* The newe expounder of lawe termes saith, that the latine *Hundredum* is sometime vsed for an immunitie or priuiledge, whereby a man is quit of mony or customes due to the gouernours, or Hundreders.

*Hundreders (Hundredarii)* be men empaneled or fit to be empaneled of a Iurie vpon any controverſie, dwelling within the Hundred where the land lieth, which is in question, *Cromptons Iurisdict. fol. 217. & anno 35. Henrici 8. cap. 6.* It signifieth also him that hath the Iurisdiction of a hundred, and holdeth the hundred court. *anno 13. Ed. pri.*



ca. 38. anno. 9. Ed. 2. stat. 2. & anno 2. Ed. 3. ca. 4. and sometime is vsed for the Bayliffe of an hundred. Horn in his mirrour of Iustices, li. 1. ca. del office del coroner.

Hundredlaghe, signifieth the Hundred courte, from the which all the officers of the Kings forest were freed by the charter of Canutus. ca. 9. Mamwood. parte. 1. pag. 2.

Huors, See Conders.

Huseans, commeth of the French (*houseaux*) i. ocrea, a boote. It is vsed in the Statute anno. 4. Ed. 4. ca. 7.

Hustings, (*Hustingum*) may seeme to come from the French (*Haulser. i. tollere, attollere. suberigere*) for it signifieth the principall and highest court in London. anno 11. H. 7. ca. 21. & Fitzh. nat. br. fol. 23. See anno. 9. Ed. pri. ca. v. nico. Other Cities and townes also haue had a court of the same name, as Winchester, Lincalne, Yorke, and Sheppey, and others, where the Barons or Citizens haue a record of such things as are determinable before them. Fleta. libro 2. cap. 55.

Husfaste, is he that holdeth house and land, Bracton l. b. 3. tra. stat. 2. ca. 10. His words be these, *Et in franco plegio esse debet omnis, qui terram tenet & domum, qui dicuntur Husfaste, & etiam alii qui illis deserviunt, qui dicuntur Folghe-*

res, &c.

## I A

**I** Arrock: anno 1 Ri. 3. ca. 8. is a kinde of cork so called.

*Identitate nominis*, is a writ that lyeth for him who is vpon a *Capias* or *Exigent*, taken and committed to prison for another man of the same name: whereof see the forme and farder vse, in Fitzh. nat. br. fol. 267. see the Register originall, fol. 194.

*Idiot*, and he that afterward becometh of insane memory, differeth in diuers cases, Coke. fol. 154. b. lib. 4. See here following *Idiota inquirenda*.

*Idiota inquirenda vel examinanda*, is a writ that is directed to the excheatour or the Shyreue of any county, where the king hath vnderstanding that there is an *Idiot*, naturally borne so weake of vnderstanding, that he cannot gouern or mannage his inheritance, to call before him the party suspected of Idiocie, & examine him: And also to inquire by the oaths of twelue men, whether he be sufficiently witted to dispose of his owne lands with discretion or not, and to certifie accordingly into the Chauncery: For the king hath the protection of his subiects, & by his prerogatiue the gouernment of their lands and substance, that are naturally defe-

defectiue in their owne discreti-  
on: *statut. de prerogativa Regis edi-*  
*tum anno 17. Ed. 2. cap. 8.* wher-  
of read *Stawns. prerog. cap. 9.* and  
of this writ, read *Fuzh. nat. br.*  
*fol. 232.* see the register orig. fol.  
267.

*Ietxon se Flotxon.*

*Ieofoale*, is cōpounded of 3. french  
words, *I' ay faille*: i. *ego lapsus sum*:  
& signifieth in our commō lawe,  
an ouer-sight in pleading, touch-  
ing the which you haue a statute  
*anno 32. H. 8. cap. 30.* whereby  
it is enacted, that if the Iury haue  
once passed vpon the issue,  
though afterward there be found  
a *Ieofoale* in the pleading, yet  
iudgement shall likewise be gi-  
uen according to the verdict of  
the Iury. See *Brooke, tit. Rrepleder*:  
the author of the new tearms of  
law saith, that a *Ieofoale* is when  
the parties to any suite, haue in  
pleading proceeded so farre, that  
they haue ioyned issue, which  
shalbe tried or is tried by a Iury  
or inquest: and this pleading or  
issue is so badly pleaded or ioyn-  
ed, that it will be errour if they  
proceed: then some of the said  
parties may by their counsell  
shew it to the court, as well after  
verdict giuen and before iudge-  
ment, as before the Iury be  
charged: the shewing of which  
defects before the Iury charged,  
was often when the Iury came  
into the court to trie the issue,

then the counsell which will  
shew it, shall say: this inquest  
you ought not to take, and if it  
be after verdict, then he may say:  
to Iudgement you ought not to  
goe: and because of this many  
delayes grew in suites, diuers sta-  
tutes are made to redresse them:  
*viz. 32. H. 8. c. 30. & others in Q.*  
*Elizabethes daies*, and yet the  
fault litle amended.

*Ignoramus*, is a word properly  
vsed by the grand Enquest em-  
paneled in the inquisition of cau-  
ses criminall and publique: and  
written vpon the bill, whereby  
any crime is offered to their cōsi-  
deration, when as they mislike  
their euidence, as defectiue or to  
weake to make good the pre-  
sentiment. The effect of which  
word so written is, that all farder  
inquiry vpon that party for that  
fault, is thereby stopped, and he  
deliuered without farder aun-  
swer. It hath a resemblance with  
that custome of the auncient Ro-  
mans: where the Iudges, when  
they absolved a person accused,  
did wright *A.* vpon a litle table  
prouided for that purpose. i. *Ab-*  
*solumus*: if they iudged him guilt-  
ty, they writ *C. id est. Condemna-*  
*mus*: if they found the cause diffi-  
cult and doubtfull, they writ *N.*  
*L. id est. Non liquet. Asconius Ped-*  
*anus in oratio. pro Milone. Alex-*  
*ander ab Alexandro. Genial. die-*  
*rum, li. 3. ca. 14.*



*Ikenild streate*, is one of the four famous wayes that the Romans made in England, taking the beginning *ab Icenis*, which were they that inhabited *Northf. Southf. and Cambridg shyre, Camd. Britan. fol. 343.* See *Watling streat*.

*Imparlanche* (*interlocutio vel interloquela*) is a petition made in court vpon the count of the Demandant by the tenent, or declaration of the plaintife, by the defendant, whereby he craueth respight, or an other day to put in his answer, See *Brooke, titulo Continuance: See Dies datus: Imparlaunce* seemeth to be generall or speciall: speciall imparlaunce is with this clause *saluis omnibus aduantageis tam ad iurisdictionem curia, quam breue & narrationem. Kitchen: fol. 200.* Then generall in reason must be that, which is made at large without inserting that or the like clause. See *Emperlaunce*

*Impeachment of Waste*, (*impetitus vasti*) commeth of the french (*empeschement .i. impedimentum*) and signifieth with vs, a restraint from committing of waste vpon lands or tenements: See *Waste*.

*Implements*, commeth of the french (*employer, i. insumere in re aliqua*) it signifieth with vs, things tending to the necessarie vse of any trade or furniture of household.

*Impost*, is a french word signi-

fying tribute, comming of the verb (*imposer*) *i. iniungere, irrogare*, it signifieth with vs, the tax receiued by the prince for such merchandise, as are brought into any heauen from other nations: *anno. 31. Elizabeth. cap. 5.* and I thinke it may in some sort be distinguished from customs, bicause custom is rather that profit, which the prince maketh of wares shipped out of the land: yet may they be confounded:

*Improvement*, See *Approve*.

*In casu consimili* is a writt: See *casu consimili*.

*In casu promisso* is a writt: See *casu promisso*.

*Incident* (*incidens*) signifieth a thing necessarily depending vpon another as more principall: For example, a court Baron is soe incident to a maner, and a court of piepowders to a fair, that they cannot be seuered by graunt: for if a maner or faire be graunted, these courts cannot be reserved. *Kitchen. fol. 36.*

*Incroche* (*incrociare*) See *encrochments*. Admirals, and their deputies doe incroche to themselves Iurisdiccions, &c: *anno. 15. Rich: 2. ca: 3.*

*Indenture* (*indentura*) is a writing comprising some contract betwene two, and being indented in the toppe answerably to another, that likewise con-

containeth the same contract: this the *Latines* called *συμπαρον*, or *συμπαρον*, which among the ciuilians, is defined to be *scriptura inter creditorem & debitorem indentata, in cuius scriptura literis capitalibus hæc dictio συμπαρον*, or *plurally τα συμπαρα* scribitur. and it differeth from *χαιροπαρον*, quia hoc manu unius tantum, puta debitoris scribitur, & penes debitorem relinquatur prouinc. constitut. de offic. archidiacono: cap: pri: verbo In scriptis. vid. Goshofr: in notis ad l. 27 §. 3. & ad leg. Corn. de fals.

*Indicauit*, is a writ or prohibition that lieth for a patron of a church, whose Clerk is defendant in court Christian, in an action of tithes commenced by another clerke, and extending to the fourth part of the church, or of the tithes belonging vnto it. for in this case, the suite belongeth to the kings court, by the statute *Westm: 2: cap: 5.* wherefore the patron of the defendant, being like to be preiudiced in his church and aduowzen, if the plaintife obtaine in the court Christian, hath this means to remoue it to the kings court; the Register originall fol. 35. b. see *ould. nat. br. fol. 31.* & the register fol. 35. and Britton. cap: 109. fol. 260. A.

*Indictment* (*Indictamentum*) see *indightment*.

*Induisum*, is vsed in the com-

mon law, for that which two houlde in common without particio. *Kitchin. fol. 241.* in these words: he houldeth *pro induiso*, &c:

*Indorsment* (*indorsamentum*, signifieth in the common law, a condition writen vpon the other side of an obligation: *West: part: 2. simbol: sect: 157.*

*Infang*, alias *infeng*, significat quietamiam prioris prise ratione conuiuij, *Fleta l. i. cap: 47.*

*Infangthef*, or *Hinfangthefe*, or *Infangtheof*, is compounded of 3. Saxon words: the preposition (*In*) (*fang* or *fong*) to take or catch, & (*thef*) it signifieth a priuiledge or libertie graunted vnto Lords of certaine maners, to iudge any theefe taken within there see. *Bracton. lib. 3. tracta. 2. cap. 8.* In the lawes of King Edward, set out by *M. Lambard: nu. 26.* you haue it thus described: *Infangthefe, Iustitia cognoscentis latronis sua est, de homine suo, si captus fuerit super terram suam: Illi vero qui non habent has consuetudines, coram iusticia regia rectum faciant in Hundredis, vel in Wapentachiis, vel in Scyris:* The definition of this see also in *Britton: fol: 90. b.* and *Roger Houeden. parte poster. suon. annalium. fol. 345. b.* & *M. Skene de verborum significatione, verbo Infangthefe;* who writeth of it at large, reciting diuersitie of opinions touching this and



*oufangtheſe*: *Eleta* ſaith that (*inſangtheef*) for ſoe he writeth it, *dicitur latro captus in terra alienius ſeiſus aliquo latrocinio de ſuis propriis hominibus. libro 1. cap: 47:§ Inſangtheefe.*

*Information*, See *Enditement*: See *the new termes of lawe.*

*Informer* (*informator*) in french (*informateur*) is an officer belonging to the exchequer or kings bench, that denounceth or complaineth of thoſe that offend againſt any penall ſtatute. They are otherwiſe called promoters, but the men being baſhfull of nature, doe bluſh at this name: theſe among the Ciuilians are called *delatores*.

*Informatus non ſum*, is a formall aunſwer or of courſe made by an attorney, that is commaunded by the court to ſay what he thinketh good in the defence of his client, by the which he is deemed to leaue his client vndefended, and ſo iudgement paſſeth for the aduerſe party. See the new booke of Entries. *titulo Non ſum informatus*. and Iudgement 12.

*Ingreſſu*, is a writ of entrie, that is, whereby a man ſeeketh entrie into lands or tenements; it lyeth in many diuers caſes where it hath as many diuerſities of formes. See *Entry*: this writ is alſo called in the particular, *precipe quod reddat*: becauſe thoſe be

formall words in all writs of entrie. The writs as they lye in diuers caſes, are theſe deſcribed in the old *natura breu*: *Ingreſſu ad terminum qui prateruit*, fol. 121. *originall Regiſt.* fol. 227. which lyeth where lands or tenements are let to a man for terme of yeares, and the tenent houldeth ouer his terme: *Ingreſſu dum non fuit compos mentis*, fol. 223. *original: regiſt.* fol. 228. which lyeth where a man ſelleth land or tenement when he is out of his wits, &c. *Ingreſſu dum fuit infra atatem*, fol. 123. *Register originall* fol. 228. which lyeth where one vnder age ſelleth his lands, &c. *Ingreſſu ſuper deſeiſina in le quibus* fol. 125. *Regiſt. orig.* fol. 229. which lyeth where a man is diſſeiſed and dyeth, for his heire againſt the diſſeiſour. *Ingreſſu in per* fol. 126. *original regiſter* fol. 229. *Ingreſſu ſur cui in vita*, fol. 128. *originall Register* fo. 239. both which ſee in *Entry*: *Ingreſſu cauſa matrimonii prelocuti*, fol. 130. *original regiſter* fol. 233: which ſee *cauſa matrimonii prelocuti*. *Ingreſſu in caſu pro viſo*, f. 132. *Register original.* fo. 235. which ſee *caſu pro viſo*. *Ingreſſu cui ante diuorium*, fol. 130. *original regiſter* fol. 233: for which ſee, *cui ante diuorium*: *Ingreſſu in conſimili caſu*, fol. 233. *originall Register* fol. 236. for which ſee *Conſimili caſu*. *Ingreſſu ſine conſenſu capituli*, fol. 128. *original*

*ginal register, fol. 230:* for which see *Sine assensu capituli. Ingressu ad communem legem. fol. 132. original register, fol. 234.* which lyeth, where the tenent for terme of life or of anothers life, tenent by curtesie, or tenent in Dower maketh a feofment in fee, & dyeth; he in the reuerfion shall haue the foresaid writ against whomsoever that is in the land, after such feofment made.

*Ingrossing of a fine*, is making the indentures by the chirographer, and the deliuey of them to the party vnto whom the cognifance is made. *Fitzh. nat. br. fol. 147. A.*

*Ingrosser (ingrossator)* commeth of the frenche *Grossour: i. crassiusdo.* or *Grosier. i. Solidarius venditor*, it signifieth in the common law, one that buieth corne growing, or dead victuall, to sell againe, except barly for mault, oats for oatemeale, or victualls to retaile, badging by licence, and buying of oiles, spices, and victualls, other then fish or salte. *anno. 5. Edward: 6. cap: 14. anno. 5. Elizab: cop: 14. anno. 13. Elizab. cap: 25.* these be *M. Wests.* words, *parie. 2. simbol: titulo Inditeiments: sect. 64.* howbeit this definition rather doth belong to vnlawfull ingrossing, then to the word in generall. see *Forstaller.*

*Inheritance (hereditas)* is a perpetuity in lands or tenements to

a man and his heirs. For *Littleton cap: i. lib: ii:* hath these words: and it is to be vnderstand, that this word (*inheritance*) is not onely vnderstand, where a man hath inheritance of lands and tenements by discent of heritage, but also euery fee simple or fee taile that a man hath by his purchase, may be said inheritance: for that, that his heires may inherit him: Seuerall inheritance is that, which two or more should seuerally, as if two men haue land giuen them to them and the heires of their two bodies, these haue ioynt estate during their liues, but their heires haue seuerall inheritance. *Kitchin fol: 155.* See the new terms of law. *verbo Enheritance:*

*Inhibition (Inhibitio)* is a writt to inhibit or forbid a Iudge from farther proceeding in the cause depēding before him: See *Fitzh: nat. br: fol: 39.* where he putteth prohibition and inhibition together: inhibition is most commonly a writt issuing out of a higher courte Christian to a lower and inferiour, vpon an Appeale. *anno. 24. H. 8. cap: 12.* and prohibition out of the kings courte to a court Christian, or to an inferiour temporall court.

*Iniunction (inunctio)* is an interlocutory decree out of the Chancerie, sometimes to giue possession vnto the plaintife, for want



of apparence in the defendant, sometime to the Kings ordinary court, and sometime to the court Christian, to stay proceeding in a cause vpon suggestion made, that the regour of the law, if it take place, is against equitie and conscience in that Case. see *West: parte. 2. siml: titulo Proceeding in Chaucery sect: 25.*

*Inlaughe* (*Inlagarius*) vel homo sub lege) signifieth him that is in some frank pledge, of whome take *Bractons* words, l. 3. *tracta: 2. cap. H. m. 5. Minor verò, & qui infra aetatem duodecim annorū fuerit, vilagari non potest nec extra legem poni: quia ante talem aetatem non est sub lege aliqua, nec in decenna, non magis quam femina. que vilagari non potest quia ipsa non est sub lege. i. Inlaughe anglice: sc: in franco plegio siue decenna sicut masculus duodecim annorum & ulterius, &c.* *Inlaughe*, significat hominem subiectum legi, *Fleta* li. i. cap. 47.

*Inlagary* (*Inlagatio*) is a restitution of one outlawed, to the kings protection, and to the benefite or estate of a subiect. *Bracton: lib. 3 tracta: 2 cap. 14. m. 6. 7. 8. Britton cap: 13.*

*Inmates*, are those that be admitted to dwell for their mony jointly with another mā, though in severall roomes of his manerio house, passing in and out by one doore, and not being able

to maintaine themselves. which are inquiralle in a leete. *Kitch. n. fol: 45* where you may reade him at large who be properly Inmates in intendment of law, and whoe not.

*Imprison*, anno 18 Ed: 3 statu: 4: cap. unico. seemeth to signifie so much as an attempt, comming of the french *empris*) which is all one with (*enterpris*) an enterprise.

*Inquirendo*, is an authoritie giuen to a person or persons, to inquire into some thing for the kings aduantage, which in what cases it lieth, see the *Register originall*, fol. 72. 85. 124. 265. 266. 179. 267.

*Inquisition* (*Inquisitio*) is a manner of proceeding in matters criminal, by the office of the Iudge, which *Hostiensis* defineth thus: *Inquisitio nihil aliud est quam aliquis criminis manifesti ex bono & a quo Iudicis competentis canonice facta investigatio, &c. qualiter de accusatio: in the Decretales*: this course we take here in England by the great Enquest before Iustices in Eyre: See Eyre. and the places in *Bracton* and *Britton* there noted; *Inquisition* is also with vs, vsed for the King in temporall causes and profits, in which kinde it is confounded with Office: *Stann: prerog. fo. 51.* See Office.

*Inrolement* (*Inrotulatio*) is the regi-

registring, recording or entring of any lawful act in the rowles of the chauncerie, as recognisance acknowledged, or a statute or a fine leuied. See *West. parte 2. symbol. titulo Fines. sect. 133.*

*In simul tenuit*, is one species of the writ called a *Formdon*. See *Formdon*.

*In takers*, be a kinde of thecues in *Ridesdall. anno. 9. H. 5. ca. 8.* so called, as it seemeth, because they dwelling within that libertie, did receiue in such booties of catell or other things as the our parters brought in vnto them. See *Our parters*.

*Interdiction* (*Interdictio*) is vsed in the common lawe, in the same signification that it hath in the canon lawe, where it is thus defined: *interdictio est censura ecclesiastica prohibens administrationem diuinorum: c. quod in te: de penitent: & remiss.* in the Decretals: and thus is it vsed. *anno. 24. H. 8. cap. 12.*

*Inter'eder*, See *Enterpleder*.

*Intrusion* (*Intrusio*) by *Bracton lib. 4. cap. 2.* is thus defined: *Intrusio est, ubi quis (cui nullum ius competit in re nec scintilla Iuris, possessionem vacuum ingreditur, qua nec corpore nec animo possidetur, sicut hereditatem iacentem antequam adita fuerit ab hærede, vel saltem a domino capitali ratione custodie, vel ratione eschaeta si forte hæredes non*

*existant, vel si post mortem alicuius per finem factum, vel per modum donationis, ubi successio sibi locum vindicare non possit, vel si post mortem alicuius qui tenuit ad vitam debeat tenementum reuerti ad proprietarium, ponat quis se in seisinam antequam tenementum illud veniat ad illum ad quem pertinere deberet ex predictis causis, with whome agreeth Fleta, lib. 4. cap. 30. §. 1. & 2. See Britton cap. 65. to the same effect. See the newe booke of Entries. verbo *Entrusio*. See *Entrusio*. See *disseisin*: the author of new Terms of lawe would haue intrusion especially after the tenent for life is deceased. verbo, *Abatement*. and abatement in all other cases: But I finde not any latine word for abatement but *intrusio*, so that I rather thinke these 2. english words to bee synonima: and *Fleta cap. supra citato*, seemeth direct against this his opinion.*

*Intrusione*, is a writ that lyeth against the intruder: *Register: fol. 233.*

*Inuentarie* (*inuentarium*) is a description or repertory orderly made of all dead mens goods and catels prized by foure credible men or more, which euery executor or administrator ought to exhibite to the Ordinary, at such times as he shall appoint the same. *West. parte prim: Simb: lib: 2. sect: 696.* where likewise



you may see the forme : This Inuentary proceedeth from the ciuill law; for whereas by the auncient law of the Romans, the heire was tyed to answer all the testators debts, by which meanes heritages were preiudiciall to many men and not profitable: *Iustinian* to encorage men the better to take vppon them this charitable office, ordained, that if the heire would first make and exhibite a trew Inuentary of all the testatours substance coming to his hand, he should be no further charged, then to the value of the Inuentarie: *l. ult. Cod. de Iure deliberando.*

*Inuest* (*Inuestire*) commeth of the french word (*Inuester*) and signifieth to giue possession. Heare *Hotoman de verbis feudalibus, verbo Inuestitura*: *Inuestitura barbarum nomen, barbaricam quoq; rationem habet. Nam ut ait Fendista, lib. 2. titulo. 2. Inuestitura proprie dicitur quando hasta vel aliquod corporum traditur a domino;* with vs we vse likewise to admit the tenents by deliuering them a verge or rodd into their hands, and ministring them an oath, which is called *Inuesting*: others define it thus: *Inuestitura, est alicuius in fauorem introductio.*

*Inure*, signifieth to take effect: as the pardon inureth: *Stawnsf. prarog. fol. 40. See Enure.*

*Ioynder*, is the coupling of two

in a suite or action against another: *Fitzb. nat. br. fol. 118. H. 201. H. 221. & H. in many other places, as appeareth in the Index. verbo Ioynder.*

*Ioynt tenents (simul tenentes) liber intrationum, titula Formdon in vieu. 3.* be those that cometo and hould lands or tenements by one title *proinduiso*, or without partition. *Littleton lib. 3. cap. 3. and termes of law: See Tenents in common.*

*Ioyning of issue (Iunctio exitus) See Issue.*

*Iointure (Iunctura)* is a covenant, whereby the husband or some other freind in his behalfe assureth vnto his wife, in respect of mariage, lands or tenements for terme of her life, or otherwise, See *West: part. 2. Symbol. lib. 2. titulo Conuenantis. sect. 118.* and the new expositiō of the law terms: it seemeth to be called a *Ioynture*, either because it is granted *ratione iunctura in matrimonio*, or because the land in franke mariage, is giuen ioyntly to the husband and the wife, and after to the heirs of their bodies, whereby the husband and wife be made ioynt tenents during the couerture. *Coke li. 2. Butler & Bakers case. f. 27. b. See franck mariage. Ioynture*, is also vsed as the abstract of ioynt tenents. *Coke lib. 3. the Marques of Winchesters case. fol. 3. a. b. Iunctura*, is also by

*Bratton* and *Fleta* vsed for ioyn-  
ing of one bargaine to another.  
*Fleta lib. 2. ca. 60.* touching the  
selfe same thing: and therefore  
ioynture in the first signification,  
may be so called, in respect that  
it is a bargaine of liuelyhood for  
the wife: adioyned to the con-  
tract of mariage.

*Iourn Choppers*, anno 8. Hen. 6.  
*cap. 5.* be regraters of yarn. Whe-  
ther that we now call (yarne)  
were in those daies called (iourn)  
I cannot say: but (choppers) in  
these daies are well knowne to  
be chaungers. as choppers of  
churches, &c.

*Journeymen*, commeth of the  
French (*Journee*) that is a day or  
dayes worke. which argueth that  
they were called Journeymen,  
that wrought with others by the  
day, though now by statute it be  
extended to those likewise, that  
covenant to worke in their oc-  
cupation with another by the  
yeare, anno quinto Elizabeth. *cap.*  
*quarto.*

*Issue* (*Exitus*) commeth of the  
French (*Issir: i. emanare*) or the  
substantiue (*Issue: i. exitus, euentus*)  
It hat diuers applications in the  
common lawe: sometime being  
vsed for the children begotten  
betweene a man and his wife:  
sometime for profits growing  
from an amercement or fine, or  
expenses of suite: sometime for  
profits of lands or tenements:

*West: 2. anno. 13. Edw. prim. cap.*  
*39.* sometime for that point of  
mater depending in suite, wher-  
upon the parties ioyned and put  
their cause to the triall of the Iu-  
ry: and in all these it hath but one  
signification, which is an effect  
of a cause proceeding, as the  
children be the effect of the ma-  
riage betweene the parents: the  
profits growing to the king or  
Lord from the punishment of  
any mans offence, is the effect of  
his transgression: the point refer-  
red to the triall of twelue men is  
the effect of pleading or proceffe.  
*Issue*, in this last signification, is  
either generall or speciall: Ge-  
nerall issue seemeth to be that,  
whereby it is referred to the Iury  
to bring in their verdict, whe-  
ther the defendant haue done a-  
ny such thing, as the plaintife  
layeth to his charge. For exam-  
ple: if it be an offence against a-  
ny statute, and the defendant  
pleade: *not culpable*: this being  
put to the Iury, is called the ge-  
nerall issue: and if a man com-  
plaine of a priuate wrong which  
the defendant denieth, & plead,  
no wrong nor disseisin, and this  
be referred to the 12. it is like-  
wise the generall issue. *Kitchin.*  
*fol. 225.* See the *Dofor* and *Stu-*  
*dent, fol. 158. b.* the speciall issue  
then must be that, where speciall  
mater being alleadged by the  
defendant for his defence, both



the parties ioyne therevpon, and so grow rather to a demurrer, if it be *questio Iuris*, or to tryall by the Iurie, if it be *questio facti*, see the new booke of Entries: *verbo*, *Issue*.

*Iuncture* see *Iointure*.

*Iure patronatus*, See the newe booke of Entries, *verbo Iure patronatus in quare impedit. fol. 465. col. 3.*

*Iurie* (*Iurata*) commeth of the french (*Iurer: i iurare.*) it signifieth in our common lawe, a companie of men as 24. or 12. Sworne to deliuer a truth vpon such euidence, as shalbe deliuered them touching the matter in question. Of which triall who may and who may not be empaneled, see *Fitzh. nat. br. fol. 165. D.* And for beter vnderstanding of this point, it is to be knowne, that there be. 3. maner of trials in England: one by Parliament, another by battle, and the third by Assise or Iurie: *Smith de repub. Anglorum. lib. 2. cap. 5. 6. 7.* touching the 2. former reade him, and see Battell, and Combat, and Parliament: the triall by Assise (be the action ciuile or criminall, publick or priuate, personall or reall) is referred for the fact to a Iurie, and as they finde it, so passeth the Iudgement. and the great fauour that by this the King sheweth to his subiects more then the princes

of other nations, you may reade in *Glanuil. lib. 2. cap. 7.* where he called it *Regale beneficium clementis principis de consilio procerum populis indultum. quo vite hominu, & status integritati tam salubriter consultitur; ut in iure, quod quis in libero soli tenemento possidet, retinendo, duelli casum declinare possint homines ambiguum, &c.* see the rest. This Iury is not vsed onely in circuits of Iustices errant, but also in other courts and maters of office, as if the Escheatour make inquisition in any thing touching his office, he doth it by a Iury or inquest: if the Coroner inquire how a subiect found dead, came to his end: he vseth an inquest. the Iustices of peace in ther quarter Sessions, the Shyreuee in his county and Turne, the baylife of a Hundred, the Stewarde of a court Leete or court Baron, if they inquire of any offence, or descide any cause betweene party and party, they doe it by the same maner. So that where it is said that all things be triable by Parliament, Battell, or assise; Assise in this place is taken for a Iury or Enquest, empaneled vpo any cause in a court, where this kind of triall is vsed: and though it be commonly deemed, that this custome of ending and desciding causes proceede from the Saxons and Brittons, and was of fa-

fauour permitted vnto vs by the Conquerour: yet I finde by the grand *Customarie of Normandie. cap. 24.* that this course was vsed likewise in that countrie . For Assise is, in that Chapter, defined to be an assembly of wise men, with the Bailife in a place certaine at a time assigned 40. daies before. wherby Iustice may be done in causes heard in the court: of this custome also and those Knights of *Normandie Iohannes Faber* maketh mention, in the *Rubrique* of the title *de militari testamento*, in *Institur.* this Iury, though it appertaine to most courts of the common law, yet is it most notorious in the half yeare courts of the Iustices errants, commonlie called the great assises, and in the quarter Sessions, and in them it is most ordinarily called a Iurie. And that in ciuile causes: wheras in other courts, it is oftener tearmed an enquest, and in the court Baron the Homage. In the generall Assise there are vsually many Iuries, bicause there be store of causes both ciuil and criminall commonly to be tried, wherof one is called the Grand Iury, and the rest petit Iuries: whereof it seemeth there should be one for euery Hundred, *Lamb. Eirenar. l. 4. cap. 3. pa. 384.* The Grand Iurie consisteth ordinarily of 24. graue and sub-

stantiall gentlemen, or some of them yeomen chosen indifferently out of the whole shyre by the Shyreuee, to consider of all bills of Inditement preferred to the court: which they doe either approoue, by writing vpon them these words, *villa vera*: or disallowe, by writing, *Ignoramus*: such as they doe approoue, if they touch life and death, are farder referred to another Iury to be considered of, because the case is of such importance: but others of lighter moment, are vpon their allowance, without more worke fined by the bench, except the party trauers the Inditement, or chalenge it for insufficiencie, or remooue the cause to a higher court by certiorarie, in which 2. former cases it is referred to another Iurie, and in the latter transmitted to the higher. *Lamb. Eire. l. 4. c. 7.* & presently vpon the allowance of this bill by the Grand Enquest, a man is said to be indighted. Such as they disallowe, are deliuered to the benche, by whome they are forthwith cancelled or torne. The petit Iury consisteth of. 12. men at the least, & are Empanelled, as well vpon criminall as vpon ciuile causes. those that passe vpon offences of life and death, doe bring in their verdict either *guiltie* or not *guiltie*, wherevpon the prisoner, if he

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be found guiltie, is said to be conuicted, and so afterward receaueth his iudgment and condemnation: or otherwise is acquitted and sett Free: of this reade *Fortesc. cap. 27.* those that passe vpon ciuile causes reall, are all, or so many as can conueniently be had, of the same hundred, where the land or tenement in question doth lie, and 4. at the least: And they vpon due examination bring in their verdict either for the demaundant, or Tenent. of this see *Fortesc. cap. 25. 26.* according vnto which, iudgement passeth afterward in the court where the cause first began: and the reason hereof is, because these Iustices of Assise, are in this case, for the ease of the cuntry, onely to take the verdict of the Iurie, by the vertue of the writ called (*nisi prius*) and so returne it to the court where the cause is depending. See (*Nisi prius.*) Ioyne with this the chapter formerly cited out of the customary of *Normandie*, and that of King *Etheldreds* lawes mentioned by *Maister Lamberd*, verbo *Centuria*. in his explication of Saxon words; and by these two words you shall perceiue, that as well among these *Normans*, as the *Saxons*, the men of this Iury were associats and Assistants to the Iudges of the court, in a kind

of equality; whereas now a daies they attend them in great humility, and are, as it were, at their commaund for the seruice of the court: the words set downe by *M. Lamberd* are these: *In singulis centuriis comitia sunt, atq; libera condicionis viri duodeni aetate superiores, una cum preposito sacra tenentes, iuranto, se adeo virum aliquem innocentem haud condemnaturos, solumve absoluturos:* to this ioyne also the 69. chapter of the saide customarie. See *Enquest.* See 12. men. See *Lamberds Erenarch. lib. 4. cap. 3. p. 384.*

*Iuris virum*, is a writ, that lyeth for the incumbent, whose predecessour hath alienated his lands or tenements. the diuers vses of which writ, see in *Fitzb. nat. br. fol. 48.*

*Iurisdiction* (*Iurisdiclio*) is a dignity which a man hath by a power to doe Iustice in causes of complaint made before him. And there be two kinds of Iurisdic-tions, the one that a man hath by reason of his fee, and by vertue thereof doth right in all plaints concerning his fee: The other is a Iurisdiction giuen by the prince to a baylife: this diuision I haue in the Customary of *Normandy*, cap. 2. which is not vnapt for the practise of our common welth, for by him whom they call a baylife, we may vnderstand all that haue

commission from the prince to giue iudgement in any cause: The ciuilians diuide *iurisdictionem* generally vnderstand in *imperium* & *iurisdictionem*: and *imperium in merum* & *mixtum*. Of which you may reade many especiall tractats written of them, as a mater of great difficulty and importance.

*Iustes*, commeth of the French (*Ioustes*. i. *decursus*) and signifieth with vs, contentions betweene Martiall men by speares on horsebacke. *anno 24. H. 8. cap. 13.*

*Iustice* (*Iusticiarius*) is a French word, and signifieth him, that is deputed by the king, to do right by way of iudgement. the reason why he is called *Iustice* and not *Iudex*, is because in auncient time the latine word for him was (*Iusticia*) and not (*Iusticiarius*) as appeareth by *Glan. lib. 2. cap. 6.* Roger Houeden parte poster. *suorum annalium. fo. 413. a.* and diuers other places, which appellation we haue from the *Normans*, as appeareth by the grand custumary. *cap. 3.* and I doe the rather note it, because men of this function should hereby consider, that they are or ought to be, not (*Iusti*) in their iudgements, but in abstract (*ipsa iusticia*) how be it I should it well, if they performe their office in *concreto*. Another reason why they are called *Iusticiary* with vs and not

*Iudices*, is, bicause they haue their authority by deputation, as *Delegates* to the king, and not *iure magistratus*; and therefore cannot depute others in their steed, the *Iustice* of the *Forest* onely excepted, who hath that liberty, especially giuen him by the statute *anno. 32. H. 8. cap. 35.* for the Chancellor, Marshall, Admirall, and such like are not called *Iusticiarii* but *Iudices*: of these *Iustices* you haue diuers sorts in England, as you may perceauce heare following. The maner of creating these *Iustices*, with other appertences reede in *Fortescau. cap. 51.*

*Iustice of the Kings bench* (*Iusticiarius de Banco regis*) is a Lord by his office, and the cheife of the rest. wherefore he is also called *Capitalis Iusticiarius Anglia*, his office especially is to heare and determine all ples of the crowne: that is, such as concerne offences committed against the crowne, dignitie, and peace of the King; as treasons, felonies, mayhems and such like, which you may see in *Bracton. lib. 3. tractat. 2. per totum*: and in *Stamf. treatise intituled the ples of the crowne*, from the first chapter to the 51. of the first Booke. But either it was from the beginning, or by time it is come to passe, that he with his assistants, heareth all personall actions, and



reall also, if they bee incident to any personall action depending before them: See *Cromptons Iurisdiction. fol. 67. &c.* of this court *Bracton lib. 3. cap. 7. m. 2.* saith thus: *placita verò civilia in rem & personam in Curia Domini Regis terminanda, coram diversis iusticiariis terminantur: Habet enim plures curias in quibus diversa actiones terminantur; & illarum curiarum habet unam propriam, sicut. aulam regiam, & iusticiarios capitales qui proprias causas Regis terminant, & aliorum omnium per querelam vel per privilegium siue libertatam; ut si sit aliquis qui implacitari non debeat, nisi coram Domino rege.* This Iustice (as it seemeth) hath no patent vnder the broad seale. For so *Crompton* saith *ubi supra*. He is made onely by writ, which is a short one to this effect. *Regina Iohanni Popham militi salutē. Sciatis quod constituimus vos Iusticiarium nostrum capitalem, ad placita coram nobis terminandum, durante beneplacito nostro, Teste, &c.* And *Bracton* in the place now recited, speaking of the common ples, saith, that *sine warrant iurisdictionem non habet*, which (I thinke) is to be vnderstood of a commission vnder the great Seale. This court was first called the kings bench, because the King sate as Iudge in it in his proper Person, and it was moveable with the court. See *anno*

9. H. 3. cap. 11. more of the Iurisdiction of this court see in *Crompton ubi supra*. See *Kings bench*. The oath of the Iustices see in the statute. *anno 18. Ed. 3. stat. 4.* See *Oathe*.

*Iustice of common ples (Iusticiarius communium placitorum)* is also a Lord by his office, and is called (*Dominus Iusticiarius communium placitorum*) and he with his assistants originally did heare and determine all causes at the common lawe, that is, all civil causes betweene common persons, as well personall as reall, for which cause it was called the court of common ples, in opposition to the ples of the Crowne or the Kings ples, which are speciall and appertaining to him onely. Of this, and the Iurisdiction hereof, see *Cromptons Iurisdiction. fo. 91*. This Court was alwaies settled in a place, as appeareth by the statute *anno 9. H. 3. cap. 11*. The oath of this Iustice and his associates, see *anno 18. Ed. 3. stat. 4.* See *Oath*.

*Iustice of the Forest (Iusticiarius Foresta)* is also a Lord by his office, and hath the hearing and determining of all offences, within the Kings forest, committed against *Venison* or *Vert*, of these there bee two, whereof the one hath Iurisdiction over all the forests, on this side *Trent*: the

the other of all beyond. The cheifest point of their Iurisdiction, consisteth vpon the articles of the *Kings Charter*, called *Charta de Foresta*, made anno 9. H. 3. which was by the Barons hardly drawne from him, to the mitigation of ouer cruell ordinances made by his predecessors. *Ronde M. Camdens Britan. pag. 214.* See *Protoforestarius*. The Court where this Iustice sitteth and determineth, is called the Iustice seate of the Forest, held euery three yeares once, whereof you may reade your fill in *M. Manwoodes* first part of Forest lawes. pag. 121. & 154. & pag. 76. He is sometimes called Iustice in Eyre of the forest. See the reason in *Iustice in Eyre*. This is the only Iustice that may appoint a deputy *per statutum* anno 32. H. 8. cap. 35.

*Iustices of Assise* (*Iusticiarii ad capiendas Assisas*) are such as were wont by speciall commission to be sent (as occasion was offered) into this or that county to take Assises; the ground of which poity, was the ease of the subiects: For whereas these actions passe alway by Iury, so many men might not without great hinderance be brought to London, and therefore Iustices for this purpose were by commission particularly authorised, and sent downe to them. And it may

seeme that the Iustices of the common plect had no power to deale in this kinde of busines, vntill the statute made anno 8. Rich. 2. cap. 2. for by that they are enhabled to take Assises, and to deliuer Gaols. And the Iustices of the kings Bench haue by that statute such power affirmed vnto them, as they had one hundred yeares before that: Time hath taught by experience, that the beter sort of Lawyers being fittest both to iudge and plead, may hardly be spared in terme time to ride into the country about such busines: and therefore of later yeares it is come to passe, that these commissions (*ad capiendas Assisas*) are driuen to these two times in the yeare out of terme, when the Iustices and other may be at leasure for these controuersies also: whereupon it is also fallen out, that the matters wont to be heard by more generall Commissions of Iustices in Eyre, are heard all at one time with these Assises: which was not so of ould, as appeareth by *Bracton, lib. 3. c. 7. nu. 2.* *Habet etiam Iusticiarios itinerantes de comitatu in Comitatum, quandoq; ad omnia placita, quandoq; ad quadam specialia, sicut Assisas &c. & ad Gaolas deliberandas, quandoq; ad unicam vel duas, & non plures.* And by this meanes the Iustices of both benches, being iustly to be accounted



ted the fitteſt of all others, and others their aſſiſtants, as alſo the *Sergeants* at law may be employed in theſe affaires, who as graueſt in yeares, ſo are they ripeſt in iudgement, and therefore likeſt to be voide of parciality, for being called to this dignity, they giue ouer practiſe *anno 8. R. 2. cap. 3.* but this alway to be remembered, that neither Juſtice of either bench, nor any other, may be Juſtice of Aſſiſe in his owne country, *anno 8. Rich. 2. cap. 2. & anno 33. H. 8. cap. 24.* laſtly, note that in theſe daies, though the ſelfe ſame men diſpatch buſines of ſo diuers natures, and all at one time, which were wont to be performed by diuers, and at ſeueral times, yet they doe it by ſeueral commiſſions. *Cromptons Iuriſdictions. fo. 210.* For thoſe who be in one word called Juſtices of circuit, and twice euery yeare paſſe, by two and two, through all Englad, haue one commiſſion to take Aſſiſes, another to deliuer *Goales*, another of *oyer and terminer*. That Juſtices of Aſſiſe, and Juſtices in Eyre did aunciently differ, it appeareth *an. 27. Ed. 3. cap. 5.* and that Juſtices of Aſſiſe, & Juſtices of *goale* deliuey were diuerſe, it is euident by *anno 4. Ed. 3. cap. 3.* The oath taken by Juſtices of aſſiſe, is all one with the oath taken by the Juſtices of the kings

bench. *ould abridgement of ſtatutes. inulo Sacramentum Iuſticiariorum. See Oath.*

Juſtices of *oyer and terminer*, (*Iuſticiarii ad audiendum & terminandum*) were Juſtices deputed vpon ſome eſpeciall or extraordinary occaſion, to heare and determine ſome or more cauſes. *Fitzherberd* in his *natura bernum* ſaith, that the commiſſion d' *oyer and terminer*, is directed to certaine perſons vpon any great aſſembly, inſurrection, hainous demeanure, or treſpaſſe committed. And becauſe the occaſion of granting this commiſſion ſhould be maturely wayed, it is provided by the ſtatute *anno 2. Ed. 3. cap. 2.* that no ſuch commiſſion ought to be graunted, but that they ſhalbe diſpatched before the Juſtices of the one bench or other, or Juſtices errats, except for horrible treſpaſſes, & that by the eſpecial ſauour of the King. The forme of this commiſſion, ſee in *Fitzh. natura breu. fol. 110.*

*Juſtices in Eyre* (*Iuſticiarii itinerantes*) are ſo termed of the French (*Erre. i. iter*) which is an old word, as (*a grand erre. i. magnis itineribus*) prouerbially ſpoken, the uſe of theſe in auncient time, was to ſend them with commiſſion into diuers countries, to heare ſuch cauſes eſpecially, as were termed the *plees*

plees of the crowne, and therefore I must imagine they were so sent abroad for the ease of the subjects, who must els haue bene hurried to the kings bench, if the cause were too high for the countie court. They differed from the Iustices of *oyer* and *terminer*, because they (as is aboue said) were sent vpon some one, or fewe speciall cases and to one place: whereas the *Iustices in Eyre*, were sent through the prouinces and counties of the land, with more Indefinite and generall commission, as appeareth by *Bracton, lib. 3. cap. 11. 12. 13.* and *Britton cap. 2.* And againe they seeme to differ in this, because the Iustices of *oyer* and *terminer* (as it is before said) were sent vncertainly, vpon any vproare or other occasion in the country: but these in *Eyre* (as *M. Gwin* setteth downe in the preface to his reading, were sent but euery seven yeare once; with whome *Horn in his myrrour of Iustices*, seemeth to agree. *lib. 2. cap. queux poient estre actours, &c.* and *lib. 2. c. des peches criminels &c.* *al fuyre de Roy, &c.* and *lib. 3. c. de Iustices in Eyre*. where he also declareth what belonged to their office. These were instituted by *Henry the 2.* as *M. Camden* in his *Britannia* witnesseth pag. 104. And *Roger Hoveden, parte poste-*

*ri. annalium. fo. 313. b.* hath of them these wordes: *Iusticiarii itinerantes constituti per Henricum secundum. i. qui diuisit regnum suum in sex partes, per quarum singulas tres Iusticiarios itinerantes constituit, quorum nomina haec sunt, &c.*

*Iustices of Gaol deliuey* (*Iusticiarii ad Gaolas deliberandas*) are such as are sent with commission, to heare and determine all causes appertaining to such, as for any offence are cast into the *Gaol*, part of whose authoritie is, to punish such, as let to mainprise those prisoners, that by lawe be not bayleable by the statute *de finibus, cap. 3. Fitzb. nat. br. f. 251. I.* These by likelihood in auncient time, were sent to countries vpon this seuerall occasion. But afterward Iustices of *Assise* were likewise authorised to this, *anno. 4. Ed. 3. cap. 3.* Their oath is all one with other of the kings Iustices of either bench. *Old Abridgement of statutes. titulo Sacramentum Iusticiariorum.* See *Othe.*

*Iustices of labourers*, were Iustices appointed in those times, to redresse the frowardnesse of labouring men, that would either be idle, or haue vnreasonable wages. See *anno 21. Edwardi 3. cap. primo. anno 25. eiusd. cap. 8. & anno 31. eiusdem cap. 6.*



*Iustices of Nisi prius*, are all one now a daies with Iustices of Assises: for it is a common Adjournment of a cause, in the common plects to put it off to such a day, *Nisi prius Iusticiarii venerint ad eas partes, ad capiendas Assisas*: and vpon this clause of Adjournment, they are called Iustices of *Nisi prius*, as well as Iustices of Assises; by reason of the writ or action that they haue to deale in: their commission you may see in *Cromptons Iurisdictiones fol. 204.* yet *M. Crompton* maketh this difference betweene them, because Iustices of Assise haue power to giue iudgement in a cause, but Iustices of *Nisi prius*. only to take the verdict. But in the nature of both there functions this seemeth to be the greatest difference, because Iustices of *Nisi prius* haue to deale in causes personall as well as reall, whereas Iustices of Assise, in strict acception, deale only with the possessory writs called *Assises*.

*Iustices of triall baston*, alias of *trayl baston*, were a kind of Iustices appointed by King Edward the first vpon occasion of great disorder growne in the Realme, during his absence in the *Scottische* and *French* warres, they are called in the *ould nat. bre. fol. 52.* Iustices of triall *Baston*, but by *Holynshed* and *Stow* in *Edw. pri.*

of *Traile baston*, of trailing or drawing the staffe as *Holynshed* saith. Their office was to make inquisition through the Realme by the verdict of substantiall Iuries vpon all officers, as *Mayors Shyreenes*, *Bailifes*, *eschcatours* & others, touching extortion, briberies and other such greouances, as intrusions into other mens lands, and Barratours that vsed to take mony for beating of men, and also of them whom they did beate; by meanes of which inquisitions many were punished by death, many by ransom, and so the rest flying the Realme, the land was quieted, & the king gained greate riches toward the supporting of his wars. Inquire farder of the name. *Baston* is thought by some to be the beame of a paire of Scales or waights. and this is in this place metaphorically applied to the iustie peising of recompence for offences committed. My poore opinio is, that the etymology of this title or addition groweth from the French (*treilles*) i. *cancelli*, barres or letiles of what thing soeuer, a grate with crosse bars, or of the singular (*treille*) i. *pagula*, an house arbour, a raile or forme, such as vines runne vpon, and (*B-ston*) a staffe or pole, noting thereby that the Iustices employed in this commission, had autho-

thoritie to proccede without any solemne iudgement seate in any place either compassed in with railes, or made booth or tent-wise, set vp with staues or poales without more worke, wherefoever they could apprehend the malefactors they sought for. See, *lib. Affisarum. fol. 141. 57.*

*Iustices of peace* (*Iusticiarii ad pacem*) are they that are appointed by the kinges commission, with others, to attend the peace in the County where they dwell: of whom some vpon speciall respect are made of the *Quorum*, because some busines of importance may not be dealt in without the presence or assent of them, or one of them. Of these it is but folly to write more, because they haue so many things pertaining to their office, as cannot in fewe words be comprehended. And againe Iustice Fitzherberd some time sithence, as also *M. Lambard* and *M. Crompton* of late haue written bookes of it to their great commendatiō, and fruitfull benefit of the whole Realme. See also *Sir Thomas Smith de repub. Angl. lib. 2. cap. 19.* They were called *Gardians* of the peace, vntill the 36. yeare of King Edward the third, *cap. 12.* where they be called *Iustices*. *Lamb. Eirenarcha. lib. 4. cap. 19*

*pag. 578.* There oathe see also in *Lambard. lib. 1. ca. 10.*

*Iustices of peace, &c. within liberties, Iusticiarii ad pacem infra libertates*, be such in cities and other corporate townes, as those others be of any countie: and their authoritie or power is all one within their seuerall precincts *anno. 27. H. 8. ca. 25.*

*Iustices*, is a writ directed to the Shyreue, for the dispatch of iustice in some especiall cause, wherewith of his owne authoritie he cannot deale in his Countie Courte. *lib. 12. cap. 18.* wherevpon the writ *de excommunicato deliberando*, is called a *Iustices* in the old *nat. bre. fol. 35.* Also the writ *de homine replegiando. eodem: fol. 41.* Thirdly the writ *de secunda superoneratione pasture. eodem: fol. 73.* *Kitchin fol. 74.* saith, that by this writ called *Iustices*, the Shyreue may hold plee of a greate summe, whereas of his ordinary authoritie he cannot hold plees but of summes vnder 40. shillings. *Crompton fo. 231.* agreeth with him. It is called a *Iustices*, because it is a commission to the Shyreue *ad Iusticiandum aliquem*, to doe a man right, and requireth noe returne of any certificat of what he hath done. *Bracton. lib. 4. tracta. 6. cap. 13. nu. 2.* maketh mention of a *Iustices* to the Shyreue of London, in a case



case of *Dower*. See the newe booke of *Entries, Iustices*.

*Iustification* (*Iustificatio*) is an vpholding or shewing a good reason in courte, why he did such a thing as he is called to answer. as to iustifie in a cause of *Repleuin*. *Broke. titulo Repleuin*.

## K E

**K**eeper of the great Seale (*Custos Magni Sigilli*) is a L. by his office and called Lord Keeper of the great Seale of England, &c. & is of the Kings priuy Councell, vnder whose hands passe al charters, Commissions, and graunts of the King strengthened by the great or broad Seale. Without the which Seale, all such Instruments, by Lawe are of no force. for the King is in interpretation and intendment of Law, a Corporation, and therefore passeth nothing firmly, but vnder the said Seale. This Lord Keeper by the statute anno 5. *Elizabetha Cap. 18.* hath the same and the like place, authority, preeminence, Iurisdiction, execution of Lawes, and all other Customes, Commodities, and Aduantages, as hath the Lord Chaunceler of England for the time being.

*Keeper of the priuy Seale* (*Custos priuati Sigilli*) is a Lord by his office, vnder whose hands passe all Charters signed by the

Prince, before they come to the broad or great Seale of England. He is also of the Kings priuy Councell. He seemeth to be called Clerke of the priuy Seale. anno 12. R 2. Cap. 11. But of late daies, I haue knowne none to beare this office, by reason the Prince thinketh good, rather to keepe this Seale in his owne hands, and by priuate trust to commit it to his principall Secretary, or some such one of his Councell, as he thinketh fit for that function.

*Keeper of the Touch.* anno 2. H. 6. cap. 14. seemeth to be that officer in the kings mint, which at this day is termed the master of the assay. See *Mint*.

*Keeper of the Forest* (*Custos Foresta*) is also called cheife Warden of the Forest. *Mamwood part. pri.* of his Forest Lawes, pag. 156. &c. & hath the principall gouernmēt of all things belonging thereunto: as also the check of all officers belonging to the Forest. And the Lord Cheife Iustice in Eyre of the Forest, when it pleaseth him to keepe his Iustice Seate, doth 40. daies before, send out his generall Summons to him, for the warning of all vnder-officers, to appeare before him at a day assigned in the Summons. This See in *Mamwood V. bi Supra*.

*King* (*Rex*) is thought by *M. Cam-*

Camden in his *Britan.* pag. 105. to be contracted of the Saxon word *Cyninge*, signifying him that hath the highest power & absolute rule ouer our whole Land. and thereupon the King is in intendment of Lawe cleared of those defects, that common persons be subiect vnto. For he is alwaies supposed to be of full age, though he be in yeares neuer so young. *Cromptons Iurisdiction.* fol. 134. *Kitchin.* fol. i. He is taken as not subiect to death, but is a Corporation in himselfe that liueth euer. *Crompton ibidem.* Thirdly, he is aboue the Law by his absolute power. *Bracton lib. pr. cap. 8. Kitchin fol. 1.* and though for the beter and equall course in making Lawes he doe admitte the 3. estates, that is, Lords Spirituall, Lords temporall, and the Commons vnto Councell: yet this, in diuers learned mens opinions, is not of constreinte, but of his owne benignitie, or by reason of his promise made vpon oath, at the time of his coronation. For otherwise were he a subiect after a sort and subordinate, which may not bee thought without breach of duty and loyaltie. For then must we deny him to be aboue the lawe, and to haue no power of dispensing with any positive lawe, or of graunting especiall priuiledges and charters vnto any, which

is his onely and cleare right, as *Sir Thomas Smith* well expresseth *lib. 2. cap. 3. de Repub. Anglican.* and *Bracton. lib. 2. cap. 16. num. 3.* and *Britton, cap. 39.* For hee pardoneth life and limme to offenders against his crowne and dignitie, except such as he bindeth himself by oath not to forgive. *Stawnf. pl. cor. lib. 2. cap. 35.* And *Habet omnia iura in manu sua. Bracton. lib. 2. cap. 24. num. prim.* And though at his coronation he take an oath not to alter the lawes of the land: Yet this oath notwithstanding, hee may alter or suspend any particular lawe that seemeth hurtfull to the publike estate. *Blackwood in Apologia Regum, c. 11.* See *Oath of the king.* Thus much in short, because I haue heard some to be of opiniō, that the lawes be aboue the king. But the kings oath of old you may see in *Bracton, lib. 3. cap. 9. nu. 2.* for the which looke in *Oath of the King.* The kings oath in English, you may see in the old abridgement of Statutes, *titulo, Sacram. Regis.* Fourthly, the kings only testimonie of any thing done in his presence, is of as high nature and credit as any Record. Whence it cometh, that in all writs or precepts sent out for the dispatch of Iustice, he vseth none other witness but himselfe, alwaies vsing these words vnder it, *Teste me ipso.*



Lastly, he hath in the right of his crowne many prerogatiues aboute any common person, be he neuer so potent or honourable: whereof you may reade your fill in *Stawnf. tractate vpon the Statute thereof made, anno 17. Ed. 2.* though that containe not all by a great number. What the kings power is, reade in *Bracton. lib. 2. cap. 24. nu. prim. & 2.*

*King of Heradls (Rex Heraldorū)* is an officer at Armes, that hath the preeminence of this Society. See *Herald*. This officer of the Romans was called *Pater Patratus*.

*Kings Bench (Bancus Regius)* is the Court or Iudgment seate where the Kinge of England was wont to sitte in his owne person: and therefore was it moueable with the court or kings Houshould. And called *Curia domini Regis*, or *Aula Regia*, as *M. Gwine* reporteth in the preface to his readings; and that, in that and the Exchequer, which were the only courts of the king, vntill *Henry* the thirds daies, were handled all maters of Iustice, as well Ciuill as Criminall. whereas the court of common ples might not be so by the statute: *anno 9. H. 3. cap. 11.* or rather, by *M. Gwins* opinion, was presently vpon the graunt of the great charter seue-

rally erected. This court of the Kings bench was wont in auncient times to be especially exercised in all Criminall maters & ples of the crowne, leauing the handling of priuate contracts to the cownty court. *Glauuil. lib. 1. cap. 2. 3. 4. & li. 10. cap. 18. Smith de Repub: Anglicana, lib. 2. cap. 11.* and hath president of it, the Lord Cheife Iustice of England, with three or foure Iustices assistants, four or fise as *Fortescu* saith, *cap. 51.* and officers thereunto belonging, the clearke of the crowne, a *Prenatory* or *Protanotari*, and other fixe inferior ministers or Attornies. *Camd: Britan: pag. 112.* See *Latitar*: How long this court was moueable, I finde not in any wrighter: But in *Brittons* time, who wrot In K. Ed: the 1. his daies, it appeareth it followed the court, as *M. Gwin* in his said preface wel obseruethout of him. See *Iustice of the Kings Bench*.

*Kings silver*, is properly that mony, which is due to the king in the court of common ples in respect of a licence there graunted to any man for passing a fine. *Coke vol. 6. fo. 39. a. & 43. b.*

*Kintall of woad, iron &c.* is a certaine waight of merchandize to the valew of a hundred, or something vnder or ouer, according to the diuers vses of sundry nations. This word is mentioned by

by *Plowden* in the case of *Reniger and Fagossa*.

*Knaue*, is vsed for a man seruant. *a. 14. Ed. 3. stat. 1. ca. 3.* And by *M. Verstigans* iudgemēt, in his *Restitutio* of decaied intelligence. *ca. 10.* it is borrowed of the dutch (*cnapa*) *cnaue* or *knaue*, which signifie all one thing: and that is some kinde of officer or seruant: as (*scild-cnapa*) was he, that bore the weapon or shield of his superior, whom the latines call (*armigerum*) and the French men (*escuyer*.)

*Knight* (*Miles*) is almost one with the Saxon (*Cnight. i. Admistrer*) and by *M. Camdens* iudgment, *pag. 110.* deriued from the same. with vs it signifieth a gentleman, or one that beareth Armes, that for his vertue and especially Martiall prowes, is by the King, or one hauing the Kings authority, singled (as it were) from the ordinary sort of gentlemen, and raised to a higher accompt or steppe of dignity. This among all other nations, hath his name from the Horse: Because they were wont in auncient time, to serue in warrs one horsbacke. The Romans called them *Equites*, the Italians at these daies terme them *Cauallieri*. The French men *Cheualiers*. The German, *Reiters*. The Spaniard *Caualleros*, or *Varones a Cauallo*. It appeareth by the statute *anno 1. Ed.*

*2. cap. 1.* that in auncient times, gentlemen hauing a full knights fee, and houlding their land by knights seruice, of the king, or other great person, might be vrged by distresse, to procure himselfe to be made knight, when he came to mans estate for the answerable seruice of his Lorde in the Kings warres. To which point you may also reade *M. Camden* in his *Britannia. pag. 111* But these customes be not nowe much vrged: this dignity in these dayes being rather of fauour bestowed by the Prince vpon the worthier sort of gentlemen, then vrged by constraint. The maner of making knights (for the dignitie is not hereditarie) *M. Camden* in his *Britan. pag. 111.* shortly expresseth in these words: *Nostris verò temporibus, qui Equestrem dignitatem suscipit, flexis genibus educto gladio leniter in humero percutitur. Princeps his verbis Gallicè affatur: Sus vel sois Cheualier au nom de Dieu. id est, Surge, aut, Sis Eques in nomine Dei.* The solemnitie of making Knights among the Saxons, *M. Stow* mentioneth in his *Annals. pag. 159.* See the priuiledges belonging to a knight in *Fernes Glorie of Generositie. pag. 116.* Of these knights there be two sorts: one spirituall, another temporall. *Cassanaus in gloria mundi. parte 9. Considerat. 2.* of both these sorts,



and of many subdiuisions, reade him in that whole part. The temporall or second sort of knights *M. Ferne* in his *Glorie of generositie. pag. 103.* maketh threefold here with vs. Knights of the sword, Knights of the Bath, and Knights of the soueraigne Order, that is, of the Garter: of all which you may reade what he saith. I must remember that mine intent is but to explain the termes especially of our common lawe. Wherefore such as I find mentioned in Statutes, I will define as I can. *M: Skene de verb. significat. verbo Milites*, saith, that in the auncient lawes of *Scotland*, Freeholders were called *Milites*. Which may seem to haue bene a custome with vs also by diuers places in *Bracton*, who saith, that knights must be in Iuries, which turne Freeholders doe serue.

*Knights of the Garter*, (*Equites Garterii*) are an order of knights, created by *Edward* the third, after he had obtained many notable victories, (king *Iohn* of *France*, and king *James* of *Scotland* being both his prisoners together, and *Henry* of *Castile* the bastard expulsed out of his Realme, and *Don Petro* being restored vnto it by the Prince of *Wales*, and Duke of *Aquitane*, called the blacke Prince) who for furnishing of this honorable

Order, made a choice out of his owne realme, and all Christendome, of the best and most excellent renowned Knights in vertues and honour, bestowing this dignitie vpon them, and giuing them a blew Garter, decked with gold, pearle, and precious stones, and a buckle of gold to weare daily on the left legge onely, a kirtle, gowne, cloake, chaperon, a collar, & other stately and magnificall apparell both of stuffe and fashion, exquisite and heroicall, to weare at high feastes, as to so high and princely an order was meete. Of which Order, he and his successours, kings of *England*, were ordained to be the Soueraignes, and the rest fellowes and brethren to the number of 26. *Smith de Republ. Angl. libro primo. cap. 20.* I haue seene an auncient monument, whereby I am taught that this Honourable companie is a Colledge or a Corporation, hauing a common Scale belonging vnto it, and consisting of a Soueraigne Gardian which is the King of *England*, that alwaies gouernes this order by himselfe or his Deputie, of 25. Companions called Knights of the Garter, of 14. secular Chanons that be Priests, or must be within one yeare after their admission: 13. *Vicars* also Priests, and 26. poore Knights, that haue

haue no other sustenance or meanes of liuing but the allowance of this house, which is giuen them in respect of their daily praier to the Honour of God, and (according to the course of those times) of Saint George. There be also certaine officers belonging to this order, as namely the Prelate of the Garter, which office is inherent to the Bish: of Winchester for the time being, the Chaunceler of the Garter, the Register, who is alwaies Deane of *Windeſour*. The principall King at Armes called Garter, whose chiefe function is to manage and marshall their Solemnities. at their yearely feasts and Installations. Lastly, the Visier of the Garter, which (as I haue heard) belongeth to an Visier of the Princes chamber, called *Blacke rod*. There are also certaine ordinances or Constitutions belonging vnto this Society, with certaine forfeitures, and sometime penances for the Breakers of them; which constitutions concerne either the solemnities of making these Knights, or their duties after their Creation, or the Priuiledges belonging to so high an order, but are too large for the nature of this poore *Vocabularie*. The site of this Colledge, is the Castle of *Windeſoure*, with the Chapel of *Saint George*,

erected by *Edward the third*, and the Chapter house in the said Castell. Howbeit the yearly Solemnity or profession may be, and is, by the Soueraignes direction, performed at the Court, wheresoeuer it lyeth, vpō *Saint Georges day*. *M. Camden* saith, that this order receiued great ornament from *Edward the 4* See *Fearns* glory of *Generosity*. pag. 120. See *Garter. Hostinian* in his booke *de origine & progressu Monachatus*, maketh mention of this honourable order, terming it by ignorance of our tongue *ordinem Carteriorum equitum*, and *Charteriorum equitum*. which you may reade. cap. 307. as also *Bernardus Girardus* in his historie. *libr. 15. ca. 185*.

*Knights of the Bath* (*militēs balnei, vel de balneo*) are an order of Knights made within the Lists of the *Bath*, girded with a sword, in the ceremonie of his Creation. *Ferns* glorie of *generosity*. pag. 105. These are spoken of, *anno. 8. Ed. 4. cap. 2*. But I had an ould monument lent me by a freind, whereby it appeareth, that these Knights were soe called of a *Bath*, into the which (after they had bine shauen and trimmed by a Barber) they entred, and thence, the night before they were Knighted, being well bathed, were taken againe by two Esquiers



commanded to attend them, dried with fine linnen cloathes, and so apparelled and leide through many solemn Ceremonies. viz. Confessing their sinnes, watching and praying all night in a church or chappell, with many other,) to the order of Knight-hood the next day. So that by the same reason these seemed to be termed Knights of the Barbe, by which Knights made out of the feild in these daies are called knights of the Carpet, because in receiuing their order they commonly kneele vpon a Carpet.

*Knights of the order of Saint Iohn of Ierusalem* (*milites Sancti Iohannis Heirolusmitani*) were otherwise called the Knights of the Rhodes, being an order of Knighthood, that had beginning about the yeare of the Lord. 1120. *Honorius* then Pope of Rome. *Cassanens de gloria mundi, parte. 9. Consideratione 4.* & *M. Fern.* in his glorie of *Generosity* pag. 127. they had their primarie foundation and cheife abroad first in Hierusalem, and the in Rhodes, wheremany of the liued vnder their Principall called the *M. of Rhodes*. vntill they were expelled thence by the Turke, anno 1523. sithence which time their cheife seate is at *Malta*, where they haue done

great exploits against the Infidels, but especially in the yeare 1595. These, though they had their beginning & elspeialest abode first at Ierusalem and next in Rhodes, yet they encreased both in number and Reuenues, liuing after the order of Friers vnder the Rule of *Saint Augustine*, and were dispersed into France, Spaine, Aluern, Campany, Englad, and Ireland. Of these mention is made in the *stat. anno. 25. H. 8. ca. 2.* & *anno 26. eiusdem, cap. secundo.* and it appeareth that they in England had one generall prior, that had the gouernment of the whole order within England & Scotland. *Reg. orig. fol. 20. b.* But toward the end of Henrie the eights daies, they in England and Ireland being found ouer much to adhere to the B. of Rome against the King, were suppressed, and their Lands and goods referred by Parlament to the Kings disposition. *anno. 32. H. 8. cap. 24.* The Occasion and the propagation of this order more especially described, you may reade in the Treatise intituled the Booke of Honour and Armes, lib. 5. cap. 28. written by *M. Rich. Ihones*.

*Knights of the Rhodes, anno. 32. H. 8. ca. 24.* See *Knights of the order of Saint Iohn*.

*Knights of the Temple* (otherwise called Templars) *Templa-*  
plarii

*plarii* was an order of Knight-hood created by *Gelasius* the Pope, about the yeare of our Lord. 1117. and so called, because they dwelt in a part of the buildings belonging to the Temple. These in the beginning dwelling not far from the Sepulchre of the Lord entertained Cristian straungers and *Pilgrims* charitably, and in their armour ledde them through the Holy Land, to view such things, as there were to be seene, without feare of Infidels adioyning. This Order continuing and increasing by the space of 200. yeares, was farre spred in Christendome, and namely here in England. But at the last, the cheife of them at *Hierusalem*, being (as some men say) found to fall away to the *Sazarens* from Christianity, and to abound in many vices, the whole Order was suppressed by *Clemens quintus*, which was about King *Ed.* the 1. daies, and their substance giuen partly to the Knights of the Rhodes, and partly to other Religious. *Cassan: de gloria mundi, parte 9. Confid. 5.* and See *anno prim: Ed. 1. cap. 42.* Others wright that in truth their destruction grewe from leaning to the Emperour against the Pope of Rome, what soeuer was pretended. *Iosch. Stephanus De iurisdictione. lib. 4. cap. 10. nu. 18.* See *Templers.*

*Knights of the Shire* (*Milites Comitatus*) otherwise be called Knights of the Parliament, and betwo Knights, or other gentlemen of worth, that are chosen in *pleno Comitatu*, by the free holders of euery Countie that can dispend 40. shillings *per annum*, and be Resient in the shire, *anno 10. H. 6. cap. 2. & anno 1. H. 5. cap. 1.* vpon the Kings writ, to be sent to the Parliament, and there by their counsell to assist the common proceedings of the whole Realme. These when euery man that had a Knights fee, were custumarily constreined to be a Knight, were of necessity to be *milites gladio cincti*, for so runneth the tenour of the writ at this day. *Cromptons Iurisdic. fol. pri.* But nowe there being but fewe Knights in comparison of former times, & many men of great liuing in euery county, Custome beareth that Esquiers may be chosen to this office. *anno 23. H. 6. ca. 6.* so that they be resient within the countie, *anno H. 6. cap. 7. & anno 1. H. 5. cap. prim.* For the obseruations in choice of these knights, see the statutes *anno 7. H. 4. cap. 15. & anno 11. eiusdem, cap. 1. & anno 6. H. 6. cap. 4. & anno 23. H. 6. cap. 15.* and the new booke of Entries. *verbo Parliament. nu. 1.* Their expences during the Parliament are borne by the Countie.



County, anno 35. H. 8. cap. 11.

*Knight Marshall* (*Marescallus hospitii Regii*) is an officer in the kings house, hauing iurisdiction, and cognifance of any transgression within the kings house and verge, as also of contracts made within the same house, whereunto one of the house is a partie. *Register orig. fo. 185. a. b. & fo. 191. b.* whereof you may there reade more at large.

*Knights fee*, (*Feudum militare*) is so much inheritance, as is sufficient yearely to maintaine a knight with conuenient reueneu which in *Henry the .3.* daies was fiftene pounds. *Camdeni Britan. pag. 111. or 680.* acres of land, or 800. acres. *eodem*: But *S. Thomas Smith* in his *Repub. Angl. lib. pri. cap. 18.* rateth it at fourtie pound. And I finde in the statute for knights anno *pri. Ed. 2. cap. pri.* that such as had 20. pound in fee or for terme of life *per annum*, might be compelled to be knights. *M. Stowe* in his *annals, pag. 285.* saith, that there were found in England at the time of the Conqueror 60211. Knights fees: others say 60215. whereof the religious houses before their suppression were possessed of 28015. Knights fee, is sometime vsed for the rent, that a knight payeth for his fee to his Lord, of whom

he houldeth. And this is an vncertaine summe, some houlding by fortie shillings the shilde, some by twenty shillings as appeareth by *Briston. lib. 5. tract. pri. cap. 2.*

*Knighten Gylde*, was a Gylde in London consisting of 19. knights, which king *Edgar* founded, giuing vnto them a portion of void ground lying without the walls of the city, now called *Portesoken ward*. *Stow. in his Annals, pag. 151.*

## L

*Laborarius*, is a writ that lieth Lagainst such, as hauing not whereof to liue, doe refuse to serue, or for him that refuseth to serue in summer, where he serued in winter: *orig. Register, fol. 189. b.*

*Laches*, commeth of the French (*lascher. i. laxare, or lasche. i. frigidus, ignavus, flaccidus*) it signifieth in our common law, negligence: as no *laches* shalbe adiudged in the heire within age. *Litleton fol. 136. and o. d. nat. br. fol. 110.* where a man ought to make a thing, and makes it not, I of his *laches* cannot haue an Assise, but I must take mine action vpon the case.

*Lagon*, See *Flotzon*.

*Lapsed lyses*, anno *1. R. 3. cap. 8.*

*Landtenent*, anno *14. Ed. 3. stat. 1. cap. 3. & anno 23. eiusdem. cap.*

cap. 1. & 26. eiusdem, stat. 5. cap.  
2. See *Terre-tenent*, & anno 12.  
R. 2. cap. 4. & anno 4. H. 4. cap.  
8. it is ioyned with this word  
(*Possessor*) as *Synonymon. v. anno*  
1. H. 6. cap. 5. See *Terre-tenent*.

*Lanis de crescentia Wallie tradu-*  
*cendis abq; custuma, &c.* is a writ  
that lyeth to the customer of a  
porte, for the permitting one to  
passe ouer wolles without cus-  
tome, because he hath paid cus-  
tome in *Wales* before, *Register,*  
fol. 279.

*Lapse* (*Lapsus*) is a slippe or  
departure of a right of presēting  
to auoide benefice, from the o-  
riginall patron neglecting to  
present within six monethes,  
vnto the Ordinary. For we say  
that benefice is in *lapse* or *lap-*  
*sed*, wherevnto he that ought  
to present, hath omitted or slip-  
ped his oportunitie, *anno 13.*  
*Eliz. cap. 12.* This *lapse* grow-  
eth as well the Patron being  
ignorant of the auoydance, as  
priuie, except onely vpon the re-  
signation of the former Incum-  
bent, or the deprivation vpon  
any cause comprehended in the  
statute, *anno 13. Eliz. cap. 12. Pa-*  
*tron in cap. quia diuersitatem. nu. 7.*  
*de concess: prabend. Rebuffus de de-*  
*uolut: in praxi beneficiorum: Lance-*  
*lotus de collation: lib. 1. Instit. ca-*  
*non: §. Tempus autem.* In which  
cases the Bishop ought to giue  
notice to the Patron.

*Larceny* (*Laricinium*) com-  
meth of the French (*Larcen. i.*  
*furtum, detractio alicui*) It is defi-  
ned by *West. parte. 2. Symbol. titu-*  
*lo Induements*, to be theft of per-  
sonall goods or chatels, in the  
owners absence: and in respect  
of the things stollen, it is either  
great or small. *Great Larceny* is,  
wherin the things stolne, though  
seuerally, exceede the value of  
12. pence, and *petit Larceny* is  
when the goods stolne exceede  
not the value of 12. pence, hi-  
therto *M. West.* But he differeth  
from *Bracton. lib. 3. tract. 2. c. 32.*  
*n. 1.* Of this see more in *Stamf. pl.*  
*cor. l. 1. cap. 15. 16. 17. 18. 19.*

*Laghsite*, is compounded of  
(*lah. i. lex*) and (*site. i. ruptum*)  
and signifieth *multamrupta vel*  
*violata legis.* *Lamb: explicat. of*  
*Saxon words, verbo Multa.*

*Last*, is a Saxon word, signi-  
fying a burden in generall, as also  
particularly a certaine weight:  
for as we say a last of hering, so  
they say *Ein last corns, last wines,*  
&c. thence commeth *lastage*,  
which see in *Lestage.* A last of he-  
ring conteineth 10. thousand, *an-*  
*31. Ed. 3. stat. 2. cap. 2.* a last  
of pitch and tarre, or of ashes,  
conteineth 14. batrels. *anno 32.*  
*H. 8. cap. 14.* a last of hides, *anno*  
*1. Iac. cap. 33.* conteineth 12.  
dozen of hides or skins.

*Latitat*, is the name of a writ  
whereby all men in personall



actions are called originally to the Kings bench. *Fitz. nat. br. fo. 78. M.* And it hath the same from this, because in respect of their beter expedition, a man is supposed to lurke, and therefore being serued with this writ, he must put in securitie for his appearance at the day, for *latitare, est se malitiosè occultare animo fraudandi creditores suos agere volentes. l. Fulcinus §. Quid sit latitare. π. Quibus ex causis in possessionem eatur*: But to vnderstand the true original of this writ, it is to be knowne, that in auncient time, whilest the kings bench was moueable, and followed the court of the King, the custome was, when any man was to be siewed, to send forth a writ to the Shyreue of the county where the Court lay, for the calling him in: and if the Shyreue returned, *non est inuentus in baliva nostra, &c.* then was there a second writ procured forth, that had these words, (*testatum est eum latitare, &c.*) and thereby the Shyreue willed to attach him in any other place where he might be found. Now when the tribunall of the Kings bench came to be seetled at *Westminster*, the former course of writ was kept for a long time, first sending to the Shyreue of *Middlesex* to summon the party, and if he could not be

found there, then next to apprehend him wherefoeuer. But this seeming too troublesome for the subiect, it was at last deuised, to put both these writs into one, and so originally to attache the party complained of vpon a supposall or fiction, that he was not within the county of *Middlesex*, but lurking else where, and that therefore he was to be apprehended in any place else, where he was presumed to lye hidden, by a writ directed to the Shyreue of the county where he is suspected to be: and by this writ a man being brought in, is committed to the Marshall of that court, in whose custodie when he is, then by reason he is in the same countie where the Kings bench is, he may be siewed vpon an action in that court, whereas the original cause of apprehending him must be a pretence of some deceit or contempt committed, which most properly of old belonged to the cognizance of that court. I haue bene enformed, that the bringing of these actions of trespass so ordinarily to the kings bench, was an inuention of Councelers, that because onely Sergeants may come to the common ples barre, found a meanes to set themselves on worke in that court. The forme of this writ is such: *Iacobus Dei*  
gratia

gratia Anglie, Francie, Scotia, & Hibernia Rex. fidei defensor, &c. Vicecomiti Cantabrigie salutem. Cum Vicecomiti nostro Middlesexie nuper preceperimus, quod caperet Thomam T. & Wilelmum W. si inuenti fuissent in ballua sua, & eos saluo custodiret, ita quod haberet corpora eorum coram nobis apud Westmynster die veneris proximo post octavas Sancte Trinitatis, ad respondendum Roberto R. de placito transgressionis; cumq; vicecomes noster Middlesexie, ad diem illum nobis returnnerit, quod predicti Thomas T. & Wilelmus W. non sunt inuenti in ballua sua, super quo ex parte predicti Roberti in curia nostra coram nobis sufficienter testatum est, quod predicti Thomas & Wilelmus latitant & discurrunt in comitatu tuo. Idcirco tibi precipimus quod capias eos, si inveni fuerint in ballua tua, & eos salvo custodias, ita quod habeas corpora eorum coram nobis apud Westmynster, die Martis proximo post tres septimanas, eodem Trinitatis, ad respondendum prefato Roberto de placito predicto, & habeas ibi tunc hoc breve. Teste Johanne Popham apud Westmynster. Roper. Launcegay, anno. 7. Rich. secund. di. cap. 13.

Law (lex) cometh of the Sax-  
on (lah) the generall significatio  
is plaine, only this I thought to  
note, that the law of this land

hath beene variable. For first  
Dunwallo Mulmutius otherwise  
Molincius a Brittain, that be-  
ing Duke of Cornwall reduced  
the whole land formerly seve-  
red by ciuile wars, into the state  
of a Monarchy, made certaine  
whollsome lawes, which long  
after were called Mulmutius  
lawes, and by Gyladis translated  
out of the Brytish tongue into  
latine. Stow in his Annals, pag.  
16. Of these there remaine yet  
certaine heads, recorded by our  
historiographers, as followeth. 1.  
ut Deorum templa, & ciuitates ho-  
minum consequantur tantam dig-  
nitatem, ne quis illò confugiens ex-  
trahi possit, antequàm ab eo quem  
leserat, veniam impetraverit. 2. ut  
huiusmodi privilegium immunita-  
tis habeant etiam ipsæ vie, quæ  
ducunt ad templa & ad vrbes. 3.  
Imo & iumenta quoq; illa, quæ rei  
rusticæ subueniunt. 4. Deniq; colo-  
norum aratra ipsa tali prerogati-  
ua libertatis perfruantur. 5. Hoc  
amplius, ut ne qua terra vacaret  
cultura, neve populus inopia rei fru-  
mentarie premeretur, aut ea mi-  
nueretur, si pecora sola occuparent  
agros qui ab hominibus colidebent.  
6. Constituunt quot aratra qualibet  
diocesis haberet, ac poenam statui-  
tis, per quos ille numerus aratrorum  
foret diminutus. 7. Item vetuit,  
bovem aratorem pro debito pecunie,  
assignari debitoribus, si alia bona  
debitoris essent. Ita fore, ne compen-



*dii causa homines pecuarii agros incultos redderent: sic etiam fore, ne quid earum rerum, quas natura praeberet, hominibus usquam deesse posset.* *Rich. Vnus historiarum Britanniae. li. 3. nu. 1.* And of these lawes we finde no obscure remanets in our lawes now in vse: See *Magna charta. ca. 1: & ca. 14.* See *Sanctuary.* See *Peace*. Then was there a lawe called *Merchenlage*, whereby the *Mercians* were governed, being a kingdome in the heart of the land, conteining those countries, that benowe called *Northampton shire, Leycester shire, Rutland shire, Lincoln shire, Nottingham shire, and Derby shire.* *Camd. Britan. pag. 94.* whose power was great in the *Heptarchy* of the *Saxons*, vntill at the last they were conquered by the west *Saxons*, and made subiect to them. *Polydor. in Angl. Hist. lib. 5.* But whereas the name of these lawes sauoureth of the *Saxons* time, it is reported by others that *Murtia* a very learned Queene and wife to *Quinse'mus* a Britton king, was the author of them, long before the *Saxons* set foote in England. *Rich. Vnus. histo. Britan. li. 3. nu. 14.* who also saith that *Alphred* the *Saxon* King translated both these, and also those of *Mulmutius* into the English or *Saxon* tongue. Thirdly, there was the lawe of the west *Saxons*, called west *Saxenlage*, and

the lawe of the *Danes* when they set foote into the Realme, called *Denelage*. And of these lawes, *Edward* made one lawe, as some write, whereby he ruled his kingdome. But *M. Camd. ubi supra*, speaking nothing of *Mulmutius* lawes, saith out of *Gernasius Tilburienfis*, that of the other three *William* the Conquerour chose the best, and to them adding of the *Norman* lawes, such as he thought good, he ordeined lawes for our kingdome, which we haue at this present, or the most of them.

Lawe hath an especiall signification also, wherein it is taken for that which is lawfull with vs, and not els where. As tenent by the courtesie of England. anno 13. Ed. 1. cap. 3. and againe, to wage lawe, *vadiare legem*, and to make lawe, *facere legem.* *Bracton lib. 3. tract. 2. cap. 37.* is to chalenge a speciall benefite, that the lawe of this Realme affordeth in certaine cases: whereof the first, *sc. vadiare legem*, is to put in securitie, that he will make lawe at a day assigned, *Glanuile lib. 1. cap. 9.* and to make law is to take an oath, that he oweth not the debt challenged at his hand, and also to bring with him so many men as the court shall assigne, to avowe vpon their oath, that in there consciences he hath sworne truly. And this lawe is vsed in actions.

actions of debt, without special-ty, as also where a man coming to the court, after such time, as his tenements for default be seised into the Kings hands, will denie himselfe to haue beene summoned, *Glanuile lib. 1. cap. 9. & 12.* and See *Bracton ubi supra. nu. 1. v. Kitchin. fol. 164.* See the newe exposition of lawe *Termes verbo (Ley)* this is borrowed from *Normandie*, as appeareth by the grand Customarie, *cap. 85.* But *Sir Edward Cooke* saith, it springeth originally from the iudiciall lawe of god, *li. 4.* of his reports, *Slades case, fol. 95. b.* alleaging the 22. *cap. of Exodus, versu. 7.* Whether so or not, the like custome is among the Feudists: by whome they that come to purge the defendant, are called (*Sacramentales.*) *libro feud. 1. tit. 4. §. 3. & titulo 10. & titulo. 26.*

*Lawe of armes (ius militare)* is a law that giueth precepts & rules how rightly to proclaime warre, to make and obserue leagues & truce, to set vpon the enemie, to retire, to punish offendours in the campe, to appoint souldiers their pay, to giue euery one dignitie to his desert, to diuide spoiles in proportion, and such like, for farder knowledge whereof, reade those that write *de iure belli.*

*Lawe day*, signifieth a leete

*Cromptons Iurisd. fol. 160.* and the county court, *anno 1. Ed. 4. cap. 2.*

*Lawles man*, is he *qui est extra legem*, *Bracton lib. 3. tract. 2. cap. 11. nu. 1.* See *Outlawe.*

*Lawe of Marque*, See *Reprisalles.* This word is vsed *anno 27. Ed. 3. stat. 2. ca. 17.* and groweth from the German word *March. i. limes*, a bound or limite. And the reason of this appellation is, because they that are driuen to this lawe of reprisall, do take the goods of that people of whome they haue receiued wrong, and cannot get ordinary iustice, when they can catch them within their owne territories or precincts.

*Lawe Merchant*, is a priuiledge or speciall lawe differing from the common lawe of England, and proper to merchants and summary in proceeding, *anno 27. Ed. 3. stat. 8. 9. 19. & 20. anno 13. Ed. 1. stat. tertio.*

*Laming of dogs (expeditatio canum)* See *Expeditare*. Mastiffs must be lawed euery three yeare. *Cromptons Iurisd. fol. 163.*

*Lease (lessa)* commeth of the French (*lay ser. i. linquere, relinquere, omittere, permittere.*) It signifieth in our common lawe, a dimise or letting of lands or tenements or right of common, or of a rent or any hereditament



vnto another, for terme of yeares or of life, for a rent reserved. And a lease is either written, called a lease by Indenture, or made by word of mouth, called a lease paroll. See the newe Termes of the lawe. The party that letteth this lease, is called the lessour, and the partie to whom it is let, the lessee. And a lease hath in it sixe points: viz. words importing a dimise, a lessee named, a commencement from a day certaine, a term of yeares, a determination, a reservation of a rent. *Coke vol. 6. Knights case. fol. 5 s. a.*

*Leete (leta)* is otherwise called a lawe day, *Smith de Republ. Anglor. lib. 2. cap. 18.* the word seemeth to haue growne from the Saxon (*Lethe*) which as appeareth by the lawes of king *Edward* set out by *M. Lamberd. num. 34.* was a court or iurisdiction about the Wapentake or Hundred, comprehending three or foure of them, otherwise called *Thryhing*, and contained the third part of a Prouince or Shire. These iurisdicitions one and other be now abolished, and swallowed vp in the Countie court, except they be held by prescription. *Kitchin. fol. 6.* or charter in the nature of a franchise, as I haue said in (*Hundred.*) The libertie of Hundreds is rare, but many

Lordes, together with their courts Baron, haue likewise Leetes adioyned, and thereby do enquire of such transgressions, as are subiect to the enquire and correction of this Court: whereof you may read your fill in *Kitchin*, from the beginning of his booke to the fifth chapter, and *Briton. cap. 28.* But this court, in whose maner fouer it be kept, is accompted the kings court, because the authoritie thereof is originally belonging to the Crowne, and thence deriued to inferiour persons, *Kitchin fol. 6.* Iustice *Dyer* saith, that this Leete was first deriued from the *Shyreuees Turn. fol. 64.* And it enquireth of all offences vnder high treason, committed against the Crowne and dignitie of the king; though it cannot punish many, but must certifie them to the Iustices of Assise, per Statut. anno 1. Ed. 3. cap. vlt. *Kitchin fol. 8.* but what things bee onely inquirable, and what punishable, see *Kitchin* in the charge of a court Leet, fol. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. See also the Statute anno 18. Ed. 2. The Iurisdiction of Bayliffes in the Dutchy of *Normandie*, within the compasse of their Prouinces, seemeth to be the same, or very neare the same, with the power of our Leete.

Leete. cap. 4. of the grand Customarie.

*Legacie* (*legatum*) is a particular thing giuen by last will and testament. For if a man dispose or transerre his whole right or estate vpon another, that is called *Hereditas* by the Ciuilians, and he to whome it is so transferred, is tearmed *heres*. Howbeit our common Lawyers call him Heire, to whom all a mans lands and hereditaments doe descend by right of bloud. See *Heire*. See *Hereditaments*.

*Leproso amouendo*, is a writ that lyeth for a Parish, to remoue a Leper or Lazar, that thrusteth himselfe into the company of his neighbours, either in church or other publike meeting, and communeth with them to their annoyance or disturbance. *Regi. orig. fol. 267. Fitz. nat. br. fol. 234.*

*Lestage*, *alias lastage*, (*lastagium*) proceedeth from the Saxon word (*lastionus*) and is a custome chalenged in Faires & markets for carying of things. *Rassals* Exposition of words: or a custome chalenged in cheapings or Faires. Saxon in the description of England, cap. 11. *Lastage*, anno 21. R. 2. cap. 18. seemeth to be the Ballance of a shippe. *Fleta* tearmeth it *Lesting*, saying, *quod significat acquietantia Lestagii*. lib. 1. cap. 47. §. *Lesting*.

*Leters of exchange*, (*litera Cambitoria, vel litera Cambii*) *Regist. orig. fol. 194. a.*

*Leters patents* (*litera patentes*) be writings sealed with the broad Seale of England, whereby a man is authorized to do or enioy any thing that otherwise of himselfe he could not. anno 19. H. 7. cap. 7. And they be so tearmed of their forme, because they be open with the Seale hanging, readie to be shewed for the confirmation of the authoritie giuen by them. If any will say, that leters patents may bee graunted by common persons, I will not greatly contend. For I find that to be true in *Fitzh. nat. br. fol. 35. E.* Howbeit they bee called rather patents in our common speech, then *Leters patents*. *Leters patents* to make Denizens. anno 32. H. 6. cap. 16. yet for difference sake, the kings leters patents be called leters patents royall. anno 2. H. 6. cap. 10. There is likewise a writ patent. *Fitzh. nat. br. fol. 1. & seqq.*

*Leuari facias*, is a writ directed to the Shyreue, for the leuying of a Summe of money vpon lands and tenements, of him that hath forfeited a recognizance, &c. *Regist. origin. fol. 298. b. & 300. b.*

*Leuari facias damna de disseisitoribus*, is a writ directed to the Shyreue, for the leuying of dam



dammages, wherein the dissei-  
four hath formerly beene con-  
demned to the disseisee. *Regist.*  
*fol. 214. b.*

*Leuari facias residuum debiti*, is  
a writ directed to the Shyreue,  
for the leuying of a Remanent  
of a debt vpon lands and tene-  
ments, or chatels of the debtor,  
that hath in part satisfied before,  
*Regist. orig. fol. 299.*

*Leuari facias quando vicecomes  
returnauit quod non habuit emptor-*  
*es*, is a writ commaunding the  
Shyreue to sell the goods of  
the debtor, which he hath al-  
readie taken, & returned that he  
could not sell them, and as much  
more of the debtours goods, as  
will satisfie the whole debt. *Re-*  
*gist. orig. fol. 300. a.*

*Leter of Atturney*, (*litera At-*  
*turnatus*) is a writing, authori-  
zing an Atturney, that is, a man  
appointed to do a lawfull act in  
our steedes, *West. parte prim. sym-*  
*bol. lib. 2. sect. 559.* It is called  
in the ciuile lawe (*mandatum*, or  
*procuratorium*) There seemeth  
to be some difference betweene  
a leter of Atturney, and a  
warrant of Atturney. For where-  
as a leter of Atturney is suffi-  
cient, if it be sealed and deliue-  
red before sufficient witnesse: a  
warrant of Atturney must be  
acknowledged and certified be-  
fore such persons, as fines bee  
acknowledged in the country,

or at the least before some Iustice  
or Sergeant, *West. parte 2. symbol.*  
*titulo Recoveries. sect. 1. F.* See the  
statute, anno 7. R. 2. cap. 14.

*Leters of Marque.* See *Mar-*  
*que* and lawe of *Marque.* See *Re-*  
*prisals.* See a. 14. Hen. 6. cap. 7.

*Leters patents of summons* for  
debt: anno 9. H. 3. cap. 18.

*Leuy* (*Leuare*) commeth of the  
French (*Leuer. i. alleanare, attollere*)  
It is vsed in our common law,  
for to set vp any thing, as to le-  
uy a mill. *Kitchin, fol. 180.* or to  
cast vp, as to leuy a ditch. *Old.*  
*nat. br. fol. 110.* or to gather and  
exact, as to leuy mony. See *Leua-*  
*ri facias.*

*Libell* (*Libellus*) literally fig-  
nifieth a litle booke, but by vse  
it is the originall declaration of  
any action in the ciuill lawe. an-  
no 2. H. 5. cap. 3. & anno 2. Ed.  
6. cap. 13. it signifieth also a cri-  
minous report of any man cast  
abroad, or otherwise vnlawfully  
published in writing, but then  
for difference sake it is called an  
infamous libel, *famosus libellus.*

*Libello habendo.* See *Copia libel-*  
*li deliberanda.*

*Libera Chasca habenda*, is a writ  
Iudiciall, graunted to a man for  
a free chace belonging to his  
maner, after he hath by a Iury  
prooued it to belong vnto him.  
*Register Iudiciall, fol. 36. & 37.*

*Liberate*, is a warrant issuing  
out of the Chaucery to the Treas-  
urer,

lurer, Chamberlaines, and Barons of the Exchequer, or clerk of the Hamper, &c. for the payments of any annuall pension or other summes graunted vnder the broad seale. *v. Brooke. titulo Taile d'Exchequer. nu. 4. orig. Reg. fol. 193. a. b.* or sometime to the Shyreue. *&c. n. br. f. 132.* for the deliery of any lands or goods taken vpon forfeits of a Recognisance. *Fitzh. nat. br. fol. 131. & 132. v. Coke. li. 4. Fulwods case, fo. 64. 66. & 67.* It is also to a Gaoler from the Iustices for the deliery of a prisoner, that hath put in baile for his appearaunce. *Lamb. Eirenarch. lib. 3. cap. 2.*

*Libertate probanda*, is a writ that lyeth for such, as be chalenged for slaues, and offer to proue themselues free, to the Shyreue, that he take security of them for the prouing of their freedome before the Iustices of Assise, and prouide, that in the meane time they be quiet from their vexations, that challenge them for slaues. *Fitz. nat. br. fol. 77. See Natiuo habendo.*

*Libertatibus allocandis*, is a writ that lyeth for a citizen or Burges of any citie, that contrarily to the liberties of the city or towne whereof he is, is impleaded before the kings Iustices, or Iustices errants, or Iustice of the Forest, &c. that refuseth or deferreth to allow his priuiledge

*Orig. Regist. fol. 262. Fitz. nat. br. fol. 229.*

*Libertatibus exigendis in itinere*, is a writ, whereby the king willet the Iustices in eyre, to admit of an Attorney for the defence of another mans libertie, &c. before them. *Regist. orig. fol. 19. b.*

*Libertas (libertas)* is a priuiledge held by graunt or prescription, whereby men enioy some benefite or fauour beyond the ordinarie subiect. Liberties royal what they be, see in *Bracton. lib. 2. cap. 5. Broke hoc titulo. See Franchise.*

*Librata terra*, containeth foure oxegangs, and euery oxegange 13. acres. *Skene de verb. signif. verbo Bovata terra. See Farding deale of land.*

*Licence to go to election*, (*Licentia eligendi*, *Regist. fol. 294.*) See *Conge d'eslire.*

*Licence to arise*, (*licentia surgendi*) is a libertie given by the Court to a tenent, that is essoyned *de malo lecti* in a reall action. For the lawe is, that in this case he may not arise out of his bed, or at least goe out of his chamber, vntill he haue bene viewed by Knights thereunto appointed, and so vpon view of his sicknesse, haue a day assigned him to appeare, or else lye, vntill he be licenced by the court to arise. And the reason of this is, as I



take it, because it may appeare, whether he caused himselfe to be essoyned deceitfully yea or not: And therefore if the demandant can prooue, that he be seene out of his chamber, walking vp and downe his grounds, or els going abroad vnto any other place, before he be viewed or haue licence of the court, he shalbe adiudged to be deceitfully essoyned, and to haue made default. Of this see *Bracton*, lib. 5. tract. 2. cap. 7. 10. & 12. and *Fleta*, li. 6. cap. 10. *Horne* in his second booke of his mirrour, ca. des *Essomes*, saith that the aduerse party may graunt *licentiam surgendi* to his aduersary thus essoyned: And if he will not, the king vpon iust cause, may.

*Licentia surgendi*, is the writ whereby the tenent essoyned *de malo lecti*, obtaineth liberty to rise. See Licence to arise. See the Register, fol. 8.

*Licentia transsretandi*, is a writ or warrant directed to the keepers of the Port at *Douer*, &c. willing them to let some passe quietly ouer sea, that hath formerly obtained the kings licence thereunto, *Reg. Orig. fol. 193. b.*

*Liefetenent* (*locum tenens*) is a French word, signifying as much as (*Legatus*) it is compounded of (*Lieu*. i. *Locus*) and (*tenir*. i. *tenere*) It signifieth with vs him, that occupieth the kings place, or

representeth his person, as the Liefetenent of the Kings of Ireland. anno 4. H. 5. cap. 6. so is it vsed anno 2. & 3. Ed. 6. cap. 2. whence that officer seemeth to take his beginning. But I read also in *M. Manwoods* first part of forest lawes. pag. 113. that the lord cheife Iustice in *Eyre* of the Forest: and the cheife warden also, haue their Liefetenents in the forest. So that though a Liefetenent be most ordinary and most properly vsed for the Depute of the king: yet is it sometime extended to ther deputies that be but Liefetenents to the King.

*Liefetenent* of the Ordinance, anno 39. El. ca. 7.

*Liege*, (*ligius*) is a word borrowed from the Feudists, and hath two seuerall significations in our common lawe: sometime being vsed for Liege Lord. anno 34. & 35. H. 8. cap. 1. & anno 35. eiusdem, cap. 3. and sometimes for Liege man. anno 10. R. 2. cap. unico. & anno 11. eiusdem. cap. prim. Liege Lord is he, that acknowledgeth no superiour. *Duarenus in Comment. de Consuetud. Feudorum*, cap. 4. num. 3. Liege man is he, that oweth leigeancie to his liege Lord. *M. Skene de verb. sign. verbo Ligeantia*, saith, that it is deriued from the Italian word, (*liga*) i. a band, league, or obligation, in whom read more of this mater.

*Ligeancie*,

*Ligeancie*, is such a duty or fealtie, as no man may owe or beare to more then one Lord. *Idem, eodem. num. 4.* I find also this definition of ligeancie in the grand Customarie of Normandy, cap. 13. *Ligeantia est, ex qua Domino tenentur vassalli sui contra omnes homines qui mori possunt & vivere, proprii corporis prabere consilium & auxilium in iuramentum, & ei se in omnibus innocuos exhibere, nec ei adversantium partem in aliquo conferre. Dominus etiam eosdem tenetur regere, protegere & defendere: eosque secundum iura & consuetudines, & leges patrie tractare:* this is otherwise called *legietas*, *Cassan: de Consuetud. Burgund. pag. 420. & 421.* This word is vsed in the statutes of our realm: as the kings liege people. anno 14. H. 8. c. 2. Of the oath of leageancy, *Iacobutius de Franchis in preludio feudorum, cap. 2. nu. 138.* hath these words: *Præstatur hoc Ligeum Homagium in manibus Regis vel imperatoris, genibus flexis, positis manibus iunctis in manibus Domini, dicendo: Ego iuro homagium tibi Dom. ut a modo sum homo ligeus vester, contra omnem hominem, qui potest vivere: verba sunt pulchra* *Andr. de Ifern: in cap. 1. in verbo omnem.* *Colum: prima. de nova forma fidelitatis: & hoc ligeum Homagium videmus præstari domino Regi tantum: quia cum per id efficiatur homo solius illius, cui iuratur, ut dixit*

*Hoftiensis in cap. ex diligenti, de Symon: alii non potest præstari. i. quia illius solius esse similiter non potest: Non n. esse potest duorum in solidum. l. si ut certo. §. si duobus vehiculum. w: commodati. secundum And: in dicto cap: 1. §. omnem. & Bald: hic in 7. diuisi & Aluar. in 13. diuisione.) Non ligeum verò dicitur, quando quis iurat fidelitatem Domino, excepta aliqua persona, viz. domino superiori, vel antiquiore: Hactenus Iacobutius. where you may reade more touching this point: as also in *Hotomans disputations de feudis, pag. 816. fol. 820. &c.**

*Ligeance (Ligeantia)* See *Liege* It sometime signifieth the dominions or territorie of the Liege Lord: as anno 25. Ed. 3. stat. 2. Children borne out of the Ligeance of the King.

*Lierwite est multa adulteriorum. Fleta li. 1. ca. 47.* It is vsed for a libertie whereby a Lord challengeth the penalty of one that lyeth vnlawfully with his bond woman. See *Loiherwit.*

*Limitation of Assise (Limitatio assise)* is at certaine time set downe by statute, within the which a man must alledge himselfe or his auncester to haue bin seised of lands, siewed for by a writ of Assise. See the statute of *Merton, cap. 8. anno 20. H. 3. and West. 1. cap. 28. and an. 32. H. 8. c. 2. & an. 1. M. 1. p. c. 5.* See also



*Theolois digest of writs lib. 10. cap. 2.* So it is vsed in the *old. nat. br. fol. 77.* in these words: the writ *de consuetudinibus & seruiciis* lyeth, where I or mine Auncetters after the limitation of Assise, were not seised of the Curotmes, &c. But before the Limitation of Assise wee were seised, &c.

*Lindwood*, was a Doctor of both Ciuill and Canon lawes, and Deane of the Arches, he was Embassadour for Henry the flueth into *Portingall*, anno 1422. as appeareth by the preface to his commentarie vpon the *Provincialls*.

*Littleton*, was a lawyer of great accompt, liuing in the daies of Edward the fourth, as appeareth by *Stawms. prerogat. cap. 21. fol. 72.* he wrote a booke of great accompt, called *Littletons tenoures*, which *Hotoman* in his commentary *de verbis feudalibus. verb. Feodum*, thus commendeth. *Stephanus Pasquierius excellenti vir ingenio, & inter Parisenses causidicos dicendi facultate prastans, libellum mihi Anglicanum Littletonum dedit, quo Feudorum Anglicorum lura exponuntur, ita incondite, absurde, & inconcinne scriptum, ut facile appareat verum esse, quod Polidorus Virgilius in Anglica historia scribit, stultitiam in eo libro cum malitia & calumniandi studio certare.*

*Litera ad faciendum attorna-*

*tum pro secta facienda:* see in the *Regist. originall. fol. 172.* *Litera de annua pensione, eodem, 266.* & 307. *Litera patens ad faciendum generale attornatum quia infirmus, eodem, fol. 21.* *Litera per quam dominus remittit curiam suam Regi, eodem fol. 4.* *Litera de requestu, eodem, fol. 129.* *Litera canonici ad exercendam iurisdictionem loco suo, fol. 305.* *Litera patentes ad conferendum beneficia, domino in remotis agente, fol. 305.* *Litera ad innotescendum recuperationem Regis de ecclesia omnibus quorum interest, fol. 305.* *Litera patentes regis quod Abbas ad totam vitam suam possit facere Attornatos generales, f. 21.* *Litera procuratorie, fol. 205. 306.* *Litera Regie deprecatorie pro annua pensione, fol. 307.* All these you may see in their places, & vnderstand the meaning of them, as occasion shall require.

*Liverie (Liberatura)* is drawne from the French (*livree* i. *insigne, gestamen, Centuriale discrimen, nota centurialis, turmalis*) or els from (*livrer* i. *radere*) and accordingly hath 3. significations. In one it is vsed for a suite of cloth or other fluffe, that a gentleman giueth in coates, cloakes, hats or gownes, with cognisauce or without, to his seruants or followers, anno 1. *Rich. 2. cap. 7.* & anno 20. *eiusdem, cap. 1. & 2.* & anno 7. *H. 4. ca. 14.* &

anno 8. Ed. 4. ca. 2. & anno 7. eiusdem, ca. 14. & anno 13. eiusdem, ca. 3. & a. 8. H. 6. ca. 4. & anno 8. Ed. 4. ca. 3. & anno 3. H. 7. ca. 1. & 12. & anno 11. eiusdem, ca. 3. & anno 19. eiusdem, cap. 14.

In the other signification, it betokeneth a deliuey of possession vnto those tenents, which hould of the king in *capite*, or in knights seruice: for the king by his prerogatiue hath *primer seysini* (or the first possession) of all lands and tenements so houlden of him. anno 52. H. 3. cap. 16. & anno 17. Ed. 2. cap. 3. that is, when any such tenent dyeth, the king forthwith entreth, and holdeth it vntill the heire do his homage, and so pray his land to be deliuered vnto him. Which act in the king is called *Liuerie*; and *liuerie* in this signification is either generall or speciall. *Stamm. prerog. fol. 12. & cap. 3.* *Liuerie* generall seemeth to be that, which is made in general words, and therefore may easily be misued. *Liuerie* speciall is that, which containeth in it a pardon of ouersights committed by the tenent in shewing out his *liuerie*, by which pardon the misuing is dispensed with. *Stamm. pag. 67 cap. Trauers. 20.* See the Institutes and grounds of the common lawe. cap. 30. of generall and speciall *liueries*. *Liuerie* in the third signification is the write

which lyeth for the heire to obtaine the possession or seisin of his lands at the kings handes: which see in *Fitz. nat. br. fol. 155.*

*Liuerie of seisin* (*deliberatio seisine*) is a deliuerie of possession of land or tenement, or other things corporeall, (for of things incorporeall no *liuerie* of seisin may be) vnto one that hath right or a probabilitie of right vnto them. For as *Bracton* saith: *Traditio debet esse vestita & non nuda, sc. quod traditione precedat vera causa vel putatiua, qua transeat Dominium. lib. 2. cap. 18. num. 13. West parte prim. symbol. li. 2. sect. 196.* calleth this a ceremonie in the common lawe, vsed in the conueyance of lands or tenements, &c. where you may see the vsuall forme hercof particularly set downe, whereunto ioyn the new exposition of law tearmes.

*Lientenent. See Lieftenent.*

*Lieutenant of the tower*, seemeth to haue bene an officer vnder the Constable. anno *Henr. 4. cap. 15.*

*Locus partitus*, signifieth a diuision made betweene 2. townes or counties, to make triall in whether the land or place in question lieth. *Fleta lib. 4. cap. 15. num. 1.*

*Locall* (*localis*) signifieth in our common lawe, as much as tyed or annexed to a place certaine: Example: the thing is lo-



call and annexed to the Freehold. *Kitchin fol. 180.* and againe in the same place: An action of trespassse for battery, &c. is transitorie and not locall: that is, not needfull that the place of the batterie should bee set downe as materiall in the declaration: or if it be set downe, that the defendant should trauesse the place set downe, by saying, he did not commit the batterie in the place mentioned in the declaration, and so auoide the action. And againe, *fol. 230.* the place is not locall: that is, not materiall to be set down in certaintie. And the gard of the person and of the landes differeth in this, because the person being transitorie, the lord may haue his *rauisement de garde*, before he be seised of him, but not of the land, because it is locall. *Perkins Graunts 30.*

**Lobbe**, is a great kinde of north sea fish. *anno 31. Ed. 3. stat. 3. cap. 2.*

**Lodemanage**, is the hire of a Pilot for conducting of a ship from one place to another.

**Loichfish**, as *Lob. Ling. Cod. anno 31. Ed. 3. stat. 3. cap. 2.*

**Lode works**, is one of the works belonging to the Stannaries in Cornwall: for the which reade *M. Camdens Britan.* in his title of *Cornwal. pa. 119.* See *Streme work.*

**Lollards** (*Lollards*) were in ac-

compt and reputation of those times, Heretiks that abounded heere in England, in the daies of *Edward the third*, and *Henry the fifth. anno 2. H. 5. cap. 7.* whereof *Weekleise* was the cheife, as *Stowe* saith in his *Annalls*: pag. 425. who by his report, went barefooted and baslely clothed, to wit in base russet garments downe to the heeles: they preached, and especially against *Monks* and other religious men. Of these reade more in him and others that writ of those times. The name *Lindwood* deriueth a lallor: *quia sicut lolium inficit segetes: sic Lollardi multociens inficiunt fideles simplices inter quos conuersantur. in ca. finali: de Hereticis verbo Lollardia*: But *Tritemius* in his chronicle, deduceth the name from one *Gualter Lolhard* a German as the first author of that sect, liuing about the yeare of our redemption. 1315.

**Lord** (*Dominus*) by *M. Camdens* opinion, is a contract (of *Lafford*) which is the Danish word for *Dominus*. It is a word of honour with vs, and is vsed diuersly. Sometime being attributed to a man, that is noble by birth or creation, which sort are otherwise called *Lords* of the Parlament. Sometime to those that be so called by the courtesie of *England*, as all the sonnes of a Duke, or the eldest sonne of an Earle.

Earle. Sometime to men honorable by office, as lord chiefe Iustice, &c. and sometime to a meane man that hath fee, and so consequently the homage of tenants within his maner. For by his tenants he is called Lord, and by none other, and in some places, for distinction sake, he is called Landlord. It is vsed neuertheless by the Writers of the common lawe, most vsually in this signification. And so is it diuided into lord aboue, and lord mesn: lord mesn, is he that is owner of a maner, and by vertue thereof hath tenants holding of him in fee, and by copy of court rolle, and yet holdeth himselfe ouer of a superiour Lord: who is called lord aboue, or lord Paramount; *old nat. br fol. 79.* Although I thinke none simply to be accounted lord Paramount, but the Prince: because all hold either mediately or immediatly of him, and he of none. In this signification I likewise reade Very lord, and Very tenant. *cod. fol. 42. & Broke titulo Heriot. num. 1.* where (I thinke) very lord, is he which is immediate Lord to his tenant: and him to be very tenant to that Lord, of whom he immediately holdeth. So that if there be lord aboue, lord mesn, and tenant, the lord aboue is not very lord to the tenant, nor the tenant

very tenant to the lord aboue.

*Lord in grosse. Fitz. nat. br. fol. 3.* is he that is lord hauing noe maner, as the king in respect of his crown. *idem. f. 5. F.* See him also, *fol. 8. A. B.* where I finde a case wherein a priuate man is lord in grosse. *viz.* a man maketh a gift in taylor of all the land hee hath, to hold of him and dyeth: his heire hath but a Seignorie in grosse.

*Lorimers. anno 1. R. 3. cap. 12.* is one of the companies in London, tha makeht bits for bridles of horses and such like. The name seemeth to be taken from the latine (*lorum*) and is else where written *Lorinors*.

*Loberwit, alias Leyerwit*, is a libertie or priuledge to take amends of him that defileth your bondwoman without licence, *Rastall*: exposition of words. It is an arends for lying with a bondwoman. *Saxon* in his description of England. *cap. 11.* Some thinke it should be rather written (*Legerwit*) For (*Leger*) is the Saxon word for a bedde, or (*Logherwit*) of the old word (*Logher*) being of the same signification. See *Bloodwit* and *Lyerwit*.

*Lufernes*, See *Furre*.

*Lusoboron*, is a base coine vsed in the daies of King Ed. the 3. coined beyōd Seas to the likeness of English money, and brought



brought in to deceiue the King and his subiects. To auoide the which it was made treason for any man wittingly to bring in any such. *an. 25. Ed. 3. stat. 4. cap. secundo.*

## M

**M** *Acegriefs. alias Macegrefs.* be such as willingly buie and sell stolen flesh, *Britton, cap. 29. fo. 71. b. Cromptons Iustice of peace. fo. 193. a.*

*Magna assisa eligenda*, is a writ directed to the Shyreue, to summon foure lawfull knights before the Iustices of Assise, there vpon their oathes to chuse 12. knights of the videnage, &c. to passe vpon the great assise betweene A. plaintife and B. defendant, &c. *Register originall, fol. 8. a.*

*Magna Charta*, called in English the great charter, is a charter containing a number of lawes ordained the ninth yeare of Henry the third, and confirmed by Edward the first. The reason why it was tearmed *Magna charta*, was either for that it contained the summe of all the written lawes in England, or else that there was another Charter called the Charter of the Forest, established with it, which in quantitie was the lesser of the two. I reade

*in Holinshed*, that King John to appease his Barons, yelded to lawes or articles of gouernment much like to this great Charter, but wee nowe haue noe auncienter written lawe, then this, which was thought to be so beneficall to the subiect, and a lawe of so great equitie in comparison of those, which were formerly in vse, that K. Henry the third was thought but hardly to yeld vnto it, and that to haue the fiftieth peny of all the moueable goods both of the spiritualtie and temporaltie throughout his realme. *Holinshed* in Henry the third. And though this Charter consist not of aboue 37. chapters or lawes: yet is it of such extent, as all the lawe wee haue, is thought in some sort to depend of it. *Polydorus and Holinshed, vbi supra.*

*Mahim (Mahemium)* cometh of the old French (*Me-haigne*) as *M. Skene* saith, *de verbo. signif. verbo Machanum*, and signifieth a corporal hurt, whereby a man looseth the vse of any member, that is or might bee any defence vnto him in batel. The Canonists call it *membra mutilationem*, as the eye, the hand, the foote, the scalpe of the head, his foretooth, or, as some say, of any finger of his hand, *Glauille lib. 14. ca. 7. See*

Bracton at large, lib. 3. tracta. 2. cap. 24. nu. 3. and Britton cap. 25. and Stawnf. pl. cor. lib. pri. ca. 41. and the newe exposition of law Termes, and the Mirrour of Iustices, cap. d. homicid. The grand Coutumarie of Normandie, cap. 6. calleth it *Mahaignium*, and defineth it to be *enormem lesionem*. All agree that it is the losse of a member, or the vse thereof. And *membrum*, as Cassan: de consuetu: Burgund. pag. 168. defineth it out of Baldus, *est pars corporis habens destinatam operationem in corpore*. where you may reade more of this point. But if you will see it largely discussed, look Vgolinus de irregularitatibus, ca. 4. §. 3. 4. 5. also read *M. Skene ubi supra*.

*Mainour*, alias *Manour*, alias *Memoure*, seemeth to come of the French (*Manier*. i. *manu tractare*, *attrahere*) or els of (*Amenner*. i. *abducere*). It signifieth in our common lawe, the thing that a theefe taketh away or stealeth: as to be taken with the *mainor*. pl. cor. fol. 179. is to be taken with the thing stolen about him: and againe, fol. 194. It was presented that a theefe was deliuered to the Vicount together with the *Mainor*: & thirdly, fol. 186. If a man be indited that he feloniously stole the goods of another, where, in truth, they bee his owne goods,

and the goods bee brought in to the court as the manour, and it be demaunded of him, what hee saith to the goods, and hee disclaime them: though he be quitted of the felonie, he shall loose the goods, and againe, fol. 149. if the defendant were taken with the manour, and the manour bee caried to the court, they in auncient times would arraine him vpon the manour, without any appeale or inditement. I find this word vsed in the *old. nat. br. fol. 110.* in this sort: where a man maketh a thing by *mainour*, or *leuying*, or *estopping*, in such case he shall haue Assise. where it signifieth handie labour, and is but an abbreviation of *Main-ourey*.

*Mainourey*, see *Mizonuerye*.

*Mainprise* ( *Manu capto* ) is compounded of two French words ( *Main*. i. *manus* ) & ( *prins*. i. *captus* ) which is a participle of the verbe) *prendre*. i. *capere*, *excipere*, *captare* ) It signifieth in our common lawe, the taking or receiuing a man into friendly custody, that otherwise, is or might bee committed to the mercie of the prison, vpon securitie giuen for his forth coming at a day assigned: as to let one to *mainprise*. *old nat. br. fol. 42.* is to commit him to them, that undertake his apparence at



the time appointed. And they that do thus vndertake for any, are called *Mainpernours*, because they do receiue him into their hands. *pl. cor. fol. 178.* Of this sort is the word (*Mainpernable*) which signifieth him that hath committed such an offence, as by law he may be thus bayled. For in many cases a man is not mainpernable: whereof see *Broke, titulo Mainprise, per totum.* and *Fitz. nat. br. fol. 249. & seqq. M. Manwood* in the first part of his *Forest lawes. pag. 167.* maketh a great difference betweene Bayle and Mainprise. For he that is mainprised (quoth he) is alwayes said to be at large; and to goe at his owne libertie out of ward, after the day is set to mainprise, vntill the day of his appearance, by reason of the said common summons or otherwise. But otherwise it is, where a man is let to bayle to foure or two men, by the lord Iustice in eyre of the Forest, vntill a certaine day. For there he is alwayes accounted by the lawe to be in their ward and custody for the time. And they may, if they will, keepe him in ward, or in prison all that time, or otherwise at their will. So that he that is so bayled, shall not be said by the lawe to be at large, or at his owne libertie. Thus farre *M. Manwood.* The myrror of Iustices maketh a difference also be-

tweene pledges and mainpernours, saying, that pledges are more general, & that mainpernours are bodie for bodie. *lib. 2. cap. de trespasse venial.* and *lib. 3. cap. des pledges & mainpernours.* When mainprises may be granted, and when not, see *Cromptons Iustice of peace. fol. 136. &c. vsque 141.* and *Lamberd. Eiren. lib. 3. cap. 2. pag. 336. 337. 338. 339. 340.* See also *Britton fol. 73. a. cap. Des pledges & mainpernours:* the author of the *Myrror of Iustices* saith, that pledges bee those, that bayle or redeeme any thing but the body of a man, and that mainpernours be those, that free the body of a man. And that pledges therefore belong properly to reall and mixt actions, and mainpernours to personall.

*Maintenance* (*manutentio vel manutentia*) is a French word, and signifieth an vpholding of a cause or person, metaphorically drawne from the succouring of a young child, that learneth to goe, by ones hand. In our common lawe, it is vsed in the euill part, for him, that secondeth a cause depending in suite betweene others, either by lending of mony, or making friends for either partie, toward his help. *anno 32. Henr. 8. cap. 9.* And when a mans act in this kinde is by lawe accounted Maintenance,

nance, and when not, see *Broke*,  
*titulo Maintenance*: and *Kitchin*,  
*fol. 202. & seqq.* and *Fitz. nat.*  
*br. fol. 172.* and *Cromptons Iurif-*  
*dict. fol. 38.* The writ that lyeth  
 against a man for this offence,  
 is likewise called *Maintenance*.  
*Termes of the lawe. verb. Main-*  
*tenance.* Speciall maintenance  
*Kitchin, fol. 204.* seemeth to bee  
 maintenance most properly so  
 tearmed. Of this see *Cromptons*  
*Iustice of peace. fol. 155. b.* and  
 the new booke of Entries. *verbo,*  
*Maintenance.* Maintenance, *vid.*  
*Novos terminos Iuris.*

*Make (facere)* signifieth in the  
 common lawe, to performe or  
 execute: as to make his lawe, is  
 to performe that lawe which he  
 hath formerly bound himselfe  
 vnto, that is, to cleare himselfe  
 of an action commenced against  
 him by his oath, and the oathes  
 of his neighbours. *Old nat. br. fol.*  
*161. Kitchin fol. 192.* which  
 lawe seemeth to be borrowed of  
 the Feudists, who call these men  
 that come to sweare for ano-  
 ther in this case, *Sacramentales*.  
 Of whom thus saith *Hotoman* in  
*verbis feudal.* *Sacramentales a sa-*  
*cramento i. iuramento dicebantur*  
*is, qui quamvis rei, de qua ambige-*  
*batur, testes non fuissent, tamen ex*  
*eius, cuius res agebatur, animi sen-*  
*tentia, in eadem qua ille verba iu-*  
*rabant: illius videlicet probitate &*  
*innocentia confisi. Nam tum deum*

*adhibebantur, cum testes nulli exta-*  
*rent.* See the rest. The formall  
 words vsed by him that maketh  
 his lawe, are commonly theise.  
*Heare O ye Iustices, that I doe*  
*not owe this summe of money*  
*demaunded, neither all nor any*  
*part thereof, in maner and forme*  
*declared, so helpe me God, and*  
*the contents of this booke. To*  
*make services or custome, is no-*  
*thing else but to performe them.*  
*Old. nat. br. fol. 14.* To make  
 oath, is to take an oath.

*Maletent*, in the Statute cal-  
 led the Confirmation of the li-  
 berties of &c. *anno 29. Ed. prim.*  
*cap. 7.* is interpreted to be a  
 tolle of 40. shillings for every  
 sacke of wooll. *Stow* in his An-  
 nals calleth it a *Maletot.* *pag. 461*  
 See also the Statute (*de tallagio*  
*non concedendo*) *an. 34. eius. stat. 5.*

*Malin.* See *Marle.*

*Manbote* signifieth a pecunia-  
 ry compensation for killing of a  
 man. *Lambard* in his exposition  
 of Saxon words. *verbo Aestimatio.*  
 Of which reade *Roger Houe-*  
*den* also, in parte poster. *suorum an-*  
*nal. fol. 344. a. b.*

*Mandamus*, is a writ, that ly-  
 eth after the yere and day, wher-  
 as in the meane time the writ cal-  
 led (*diem clausit extremum*) hath  
 not bene sent out to the Exchea-  
 tour, for the same purpose, for  
 the which it should formerly  
 haue bene sent forth. *Fitzh. nat.*



br. fol. 253. B. See *Diem clausit extremum*. *Mandamus* is also a charge to the shyreue, to take into the kings hands, all the lands and tenements of the kings widow, that against her oath formerly giuen, marieth without the kings consent. Register. fol. 295. b. See *Widow*.

*Mandatum*, is a commaundment iudiciall of the king or his Iustices, to haue any thing done for the dispatch of iustice, whereof you shall see diuersity in the table of the Register iudiciall. *verbo Mandatum*.

*Maner* (*Manerium*) seemeth to come of the French (*manoir* .i. *domicilium*, *habitatio*) *M. Skene. de verbo. significatione. verbo Manerium*, saith it is called *Manerium*, *quasi Manurium*, because it is laboured with handy worke by the Lord himselfe. It signifieth in our common law, a rule or gouernmēt, which a man hath ouer such as hold land within his fee. Touching the originall of these maners, it seemeth that in the beginning, there was a certaine compasse or circuit of ground, graunted by the king vnto some man of worth (as a Baron or such like) for him and his heires to dwell vpon, and to exercise some iurisdiction more or lesse within that compasse, as he thought good to graunt, performing him such seruices, and

paying such yearely rent for the same, as he by his graunt required: and that afterward this great man parcelled his land to other meaner men, inioyning them againe such seruices and rents, as he thought good, and by that meanes, as he became tenent to the king, so the inferiours became tenents vnto him. See *Perkins Reseruations* 670. and *Andrew Horns* booke intituled the mirrour of Iustices li. i. ca. du. *Roy Alfred*. See the definition of a Maner. *Fn. b. fol. 18*. And this course of benefitting or rewarding their nobles for good seruice, haue our kings borrowed from the Emperours of Rome, or the Lombard kings, after they had settled themselves in Italy, as may well appeare by *Antonius Contius in methodo feudorum, c. i. de origine, & libris Feudorum*. And I finde that according to this our custome, all lands shoulde in fee throughout Fraunce, are diuided into *Fiefz* and *arrierfiefz*: whereof the former are such as are immediatly graunted by the king, the second such as the kings feudataries doe againe graunt to others. *Gregorii Syntagm. lib. 6. ca. 5. nu. 3*. But the inconstancy of mans estate, and the mutability of time, hath brought to passe, that those great men, or their posterity, haue alienated these Mansions and lands so giuen them

them by their Prince, and others that had none, haue by ther welth purchased many of them: and againe that many for capitall offences haue forfeited them to the king, and that thereby they still remaine in the crowne, or are bestowed againe vpon others: so that at these daies many be in the hands of mean men, such as by their skill in lawe or phisicke, by merchaundize, grazing, or such other good husbandry, haue gathered welth, and inabled themselues to purchase them of those, that by discent receiued thē from their ancessors in greater aboundance, then wit to keepe them. But who so euer possesseth these maners, the liberty belonging vnto them is reall and prediall; and therefore remaineth still, though the owners be changed. In these daies a maner rather signifieth the Iurisdiction and royalty incorporeall, then the land or site. For a man may haue a maner in grosse (as the law termeth it) that is, the right and interest of a court Baron, with the perquisites thereunto belonging: and another or others haue euery foote of the land thereunto belonging. *Kutobin. fol. 4. Brooke hoc titulo per totum. Bracton, lib. 4. ca. 31. nu. 3. diuideth manerium, in capitale & non capitale. See Bracton lib. 5. tracta. 5. ca. 28. nu. pri. See Fee:*

The new expositor of law terme saith, that Manour is a thing compounded of diuers things, as of a house, land earable, pasture, meadow, wood, rent, aduouzen, court Baron, and such like. And this ought to be by long continuance of time, to the contrary whereof mans memory cannot discerne, &c.

*Mansion (Mansio)* as *Bracton* defineth it, *lib. 5. cap. 28. nu. pri.* is a dwelling, consisting of one or more houses without any neighbour. And yet he graunteth forthwith, that *Mansio Mansioni possit esse vicinata*. I finde it most commonly vsed for the lords cheife dwelling house within his see, whether it haue neighbours adioyning or not, otherwise called the capitall mesuage. *Bracton. li. 2. c. 26.* or the cheife maner place. *Mansio* amongst the ancient Romans, was a place appointed for the lodging of the Prince or souldiers in their iourney, furnished with conuenient entertainment by the neighbours adioyning. And in this sence we reade *primam mansionem*, for the first nights lodging, and so in order. It is probable that this word (*Mansion*) doth in some construction signifie so much land, as *Beda* calleth *familiariam* in his ecclesiasticall history. For *Master Lamberts* in his explica. of Saxon words, *ver. Hida*



erra, saith, that that which he calleth *familiam*, others sithence call *Manentem* vel *Mansam*. (*Mansus* and *Mansum*) I reade of in the Feudists, which as *Hotoman* saith, in *verbis feudilibus, est neque domus, neque area, neque hortus, sed ager certi modi ac mensura*. And againe, in *Commentariis feudorum, lib. p. tit. 4. vers. de Manso. Agri deserti & inculti certa mensura dabantur cultoribus quasi in emphyteusim, ut culti & meliorati feudi iure a vasallis possiderentur*. In contractu autem vasalli nonnunquam incrementum, i. meliorationem omnem sibi recipiebant, sine per culturam, sine per inaedificationem ea melioratio fieret, &c. And *Cassanovus de consuet. Burg. pag. 1195.* defineth it thus: *Mansus est, quantum quis cum uno pari boum laborare possit*. prouing it out of *Bartolus, in li. si ita. w. de auro & argen. legato: in fine legis*. Reade *M. Skene de verbo, sign. verbo Mansus*. I reade the latine word (*Mansia*) in the same signification, as namely in the charter graunted by King *Kanulphus* to *Ruchin* the abbot of *Abingdon*, which Sir *Edward Cooke* letteth downe in his booke *de iure Regis ecclesiastico*.

*Manslaughtre* (*Homicidium*) is the vnlawfull killing of a man, without premeditated malice: as when two, that formerly meant no harme one to the other, meet

together, and vpon some sodaine occasion falling out, the one killeth the other. *West par. 2. symb. titulo Indirements, sect. 44.* It differeth from murder, because it is not done with foregoing malice: & from chauncemedly, because it hath a presēt intēt to kill. And this is felony, but admitteth clergie for the first time. *Starnf. pl. cor. lib. 1. cap. 9.* and *Britton ca. 9.* It is confounded with murder in the statute, anno 28. Ed. 3. ca. 11.

*Mantyle* (*Mantile*) commeth of the French (*Manieau*) and signifieth with vs a long roabe, anno 24. Hen. 8. cap. 13.

*Manucaptio*, is a writ that lyeth for a man, who taken for suspicion of felony, and offering sufficient Bayle for his appearance, cannot be admitted thereunto by the Shyreue, or other hauing power to let to mainprise. *Fitzh. nat. br. fol. 249.* See *Mainprise*. How diuersly it is vsed, see the *Register* originall, in the table.

*Manuel* (*Manualis*) is a thing whereof present profit may be made. *Starnf. prerogat. fol. 54.* And a thing not manuell is that, whereof no present profit may be made, but hereafter, when it falleth. *ibid.*

*Manumission* (*Manumissio*) is a freeing of a villein or slaue out of his bondage. The forme of this

this in the time of the Conquerour, M. Lamb. in his *αρχαιολογία* fol. 126. setteth downe in these words: *Si quis vellet seruum suum liberum facere, tradat eum vicecomiti, per manum dexteram, in pleno comitatu, & quietum illum clamare debet à iugo seruitutis sue per manumissionem: & ostendat ei liberam portas, & vias, & tradat illi libera arma, scilicet lanceam & gladium: & deinde liber homo efficitur.* Some also were wont to be manumitted by charter of manumission. *vide Brooke, titulo Villenage, fol. 305.* The newe expositor of lawe Termes maketh two kinds of manumission: one expressed, an another implied. Manumissio expressed is, when the Lord maketh a deede to his villein to infranchise him by this worde (*Manumittere*) The maner of manumitting in old time was thus: The Lord in presence of his neighbours tooke the bondman by the head, saying: I will that this man be free, and therewith shoued him forward out of his hands. Manumission implied, is, when the Lord maketh an obligation for payment of money to him at a certaine day, or sheweth him, where he might enter without suite, or granteth him an annuitie, or leaseth land vnto him by deede, for yeeres, or for life, and such like.

*Manutentia*, is the writ vsed in case of maintenance, Register originall, fol. 182. & 189. See *Maintenance*.

*Marches* (*Marchia*) be the bounds and limits betweene vs and *Wales*, or betweene vs and *Scotland*. anno 24. *Henry 8. cap. 9. Camd. pag. 453. & 606.* and the marches of *Scotlād* are deuided into west and middle marches anno 4. *H. 5. ca. 7. & anno 22. Ed. 4. cap. 8.* It seemeth to be borrowed from the German (*March. i. limes*) *Camd. Britan. pag. 27.* or it may be from the French (*Marque. i. signum*) being the notorious distinction of two diuers countries or territories. It is vsed in the statute anno 24. *Hen. 8. ca. 12.* generally for the precincts of the Kings dominions.

*Marchers*, be the noble men dwelling on the *Marches* of *Wales* or *Scotland*: who in times past (as M. *Camden* saith, pag. 453.) had their priuate lawes, much like as if they had beene Kings, which now be worne out. Of these *Marchers* you may reade, anno 2. *H. 4. cap. 18. & anno 26. Hen. 8. cap. 6. & anno 1. Ed. 6. cap. 10.* where they are called Lord *Marchers*. See anno 27. *Hen. 8. cap. 26.* howe these were extinguished.

*Marshall* (*Mariscallus*) is a French word, signifying as much



as *Tribunus Celerum*, or *Tribunus militum* with the auncient Romanes, or *Πολέμυχος* with the Grecians, or *ἱππαρχος*. *Tiraquel. de Nobilitate. ca. 8. p. 42. nu. 17.* The french word may seeme also (among many other that they haue, to proceede from the German *Marschalk. i. equitum magister.* which *Hotom in in verbis feudilibus, verbo Marschalkus,* deriueth from the old word (*March*) signifiing a house, with whome agreeth *Lupanus, de Magistratibus Francie, lib. pri. ca. Marschallus* Others make it of these two Saxon words (*Mar. i. equus* and *scalch. i. prefectus*) or as *M. Verstegan* saith, from (*Mare*) the generall appellation of all horses, as (*hors*) is now in English, and (*Scale*) which, in the auncient language of the Netherlanders, he affirmeth to signifie a kind of seruant, as *Scalco*, doth at this day among the Italians, being originally a *Dutch* word. with vs there be diuers officers of this name: but one most noble of all the rest, who is called Lord or Earle Marshall of England, of whome mention is made in diuers statutes, as *anno. 1. H. 4. ca. 7. & 14. & anno. 13. Rich. 2. ca. 2.* His office consisteth especially in maters of warre and armes, as well with vs as in other countries. whereof you may reade in *Lupanus ubi supra.* and *Tilius. li. 2. ca. de Constabulis,*

*Mariscallo. &c.* But he that will knowe the office of our Lord Marshall, had neede beside the fewe statutes which concerne him, to read his commission, and also to haue acces to the Heradls, who out of their antiquities are able to discouer much, that by prescription belongeth vnto this office. The next to this is the Marshal of the Kings house, whose especiall authoritie is, according to *Bruton* and *M. Gwin* in the preface to his reading, in the Kings place to heare and determine all pices of the Crowne, and to punish faults committed within the verge, & to heare and determine suites betweene those of the kings household, and others within the verge. *Cromptons Iurisdic. fol. 102.* of him you may reade *Fitzb. nat. br. fol. 241. B. and anno. 18. Ed. 3. statut. 2. ca. 7. & anno 27. Ed. 3. stat. 2. c. 6. & an. 2. H. 4. c. 23. & a. 15. H. 6. c. 1.* *Fleta* saith, that the office of the Marshall of the kings house belongeth to the Earle of *Norfb.* in fee, and that he may appoint (with the Kings consent) a Knight vnder him to execute the office. which office he also describeth to be especially to execute the iudgements & decrees of the Steward, & to haue the keeping of the prisoners. *li. 2. c. p. 4.* and read farther of his office in the 5. chapter of

of the said booke, which is to dispose of the Lodging in the Kings household vnder the Chamberlaine, and to cleere the Verge of Strumpets, &c. *anno 5. Hen. 3. statut. 5.* Then be there other inferiour officers of this name: as Marshall of the Iustices in Eyre, *anno 3. Ed. 1. ca. 19.* Marshall of the Kings bench, *anno 5. Ed. 3. ca. 8.* and this is he which hath the custodie of the prison, called the Kings bench in Southwarke. *Fitzb. nat. br. fol. 251. I.* And these inferiour Marshalls be either *ad placitum*, or in fee, *Kitchin. fol. 143.* I finde also in *Fleta li. 2. ca. 15.* mention of a Marshall of the Kings hall, whose office is, when the tables be prepared and clothes laide, to call out both those of the household and straungers, according to their worth, and decently to place them, to reiect vnworthy persons, to knowe the number of the hall, and to testifie it at the next accompt, to see dogs kept out, to saue the almes from filching, to see silence kept, and euery man competently serued with meate and drinke, and when the courte remoueth, to appointe euery one of the household his lodging. There is also a Marshall of the eschequer, *anno 51. H. 3. sta. 5.* to whome the courte committeth the custody of the kings debtors during the

terme time, to the end they may be farder imprisoned, if they cleere not their debts. He also assigneth Shyreuees, escheators, customers, and collectors, their auditours before whome they shall accompt. He hath all inquisitions taken before escheators *virtute officii*, deliuered vnto him, to be deliuered by him to the treasurers Remembrancer.

*Mareschalsee* (*Marescaltia*) is the Court of the Marshall or (word for word) the seate of the Marshall, of whome see *Cromptons Inrisdict. fol. 102.* It is also vsed for the prison in Southwarke, the reason whereof may be, because the Marshall of the kings house was wont perhaps to sit there in iudgment. See the statute *anno 9. R. 2. cap. 5. & anno 2. Hen. 4. ca. 23.*

*Martiall lawe*, is the law that dependeth vpon the voice of the king, or the kings leiuetenent in warres. For how be it, the king for the indifferent and equall temper of lawes to all his subjects, doe not in time of peace make any lawes but by the consent of the three estates in Parliament: yet in warres by reason of great daungers rising of small occasions, he vseth absolute power: in so much as his word goeth for law. And this is called *Martiall law*. *Smith de repub. Angli. li. 2. c. 3.* See *Law of armes.*



*Mariage* (*Maritagium*) signifieth not onely the coupling together of man and wife, but also the interest of bestowing a ward or a widow in marriage. *Magna charta*, ca. 6. anno 9. He. 3. and *Bracton lib. 2. ca. 3.* and also it signifieth land giuen in marriage, *Bracton li. 2. ca. 34. & 39.* And in this signification the same author saith, that *Maritagium est aut liberum aut seruitio obligatum. li. 2. ca. 7. nu. 3. & 4. Liberum maritagium dicitur, ubi donator vult, quod terra sic data, quiescat sit & libera ab omni seculari seruitio, quoad Dominum feudum possit pertinere: et ita quod ille, cui sic data fuerit, nullum omnino inde faciat seruitium vsq; ad tertium heredem, & vsq; ad quartum gradum: ita quod tertius heres sit inclusivus.* See the rest. See also *Skene de verbo. significatione, verbo Maritagium*, who is worth the reading.

*Maritagio amisso per defaultam*, is a writ for the tenant in frank marriage, to recouer lands, &c. whereof he is deforced by another. *Regist. fol. 171.*

*Maritagio forisfacto*, is a writ. See *Forisfactura Maritagin.*

*Marke*, (*merca*) commeth of the Saxon (*Meare*) which signifieth a peece of mony worth thirty siluer pence. *Lamb. explicat.* of Saxon words. *verbo, Mancusa*: what it now signifieth in our coyne euery man know-

eth. But in auncient times I find a merke of gold, which was the quantitie of eight ounces. *Stores annals. pag. 32.* and againe, *pag. 691. 12. merkes of golde Troy weight*, the which was 200. pounds of English mony, after which rate euery merke valued 16. pounds, 13. shillings, 4. pence. *M. Skene de verbor. signific. verbo, Merke*, saith, that in *traktatu de ponderibus & mensuris*, a Mercke signifieth an ounce weight, or halfe a pound, whereof the dramme is the eighth part, like as the ounce is the eighth part of a marcke: citing *Cassianus de consuet. Burgund. Rub. prim. §. 7. verbo. Solz Turnois. hiis verbis. Solidus (inquit) in iure capitur pro auro, quorum 72. faciunt libram auri, & duodecim uncia faciunt libram & octo uncia merca.*

*Market* (*mercatus*) commeth of the French (*marche. i. emporium, forum nundinarium*) it signifieth with vs, the same thing, and also the liberty or priuiledge whereby a towne is enabled to keepe a market. *Oldnat. br. fol. 149.* So doth *Bracton* vse it, *lib. 2. cap. 24. num. 6. & lib. 4. cap. 46.* where he sheweth, that one market ought to bee distant from another *sex leucas & dimidium, & tertiam partem dimidia.* The reason thereof both he and *Flein* giueth in these wordes: *Quia omnes rationabiles dicta constant*

stant ex 20. milliaribus. Diuidatur ergo dieta in tres partes: prima ante matutina detur euntibus versus mercatum: secunda detur ad emendum & vendendum: qua quidem sufficere debet omnibus, nisi sint forte mercatores statarii qui merces deposuerint & exposuerint venales, quibus necessaria erit prolixior mora in mercatu: & tertia pars relinquitur redeuntibus de mercatu ad propria. Et qua quidem omnia necesse erit facere de die, non de nocte, propter insidias & incursum latronum, ut omnia sint in tuto, &c. lib. 4. cap. 28. §. Item refert.

Marle, is a kind of stone or chalke, which men in diuers countries of this Realme, cast vpon their land to make it the more fertile. It is some where called *Malm.* anno 17. Edward. 4. cap. 4.

Marque, seemeth to bee a French word signifying *notam*, vel *signum*, or else to come from the German (*march. i. limes*) it signifieth in the auncient statutes of our land, as much as reprisals, as anno 4. H. 5. cap. 7. Marques and Reprisals are vsed as *Synonyma*. And letters of Marque are found in the same signification in the same chapter. The reason may be, because the griefes wherevpon these letters are sought and graunted, are commonly giuen about the bounds and limits of euery con-

trey: or at least the remedie for the same is likeliest there to bee had by some sodaine inrode, & happing of such recompence of the iniurie receiued, as may most conueniently be lighted vpon. See *Reprisals*. See *Marches*.

Marquis (*Marchio*) by the opinion of *Hotom.* verbo *Marchio*, in verbis *feudalibus*, commeth of the German *March. i. limes*, signifying originally as much as (*Custos limitis*) or (*Comes & praefectus limitis*) of these *Zasius* thus writeth: de *Marchione* nihil compertum est, nisi quod Gothicum vocabulum putamus. And alterward thus: *Huiusmodi Marchionum (sive ut nos appellamus) Margraviorum origo in limitaneos, praepositos, sive duces referenda: Margrapii dicti quod limitibus, quos vulgo marken appellamus, graphii, id est praepositi fuerunt, &c.* For in those territories, that haue naturally noe bounds of great strength or defence, there is neede of wise and stout men toward their borders, for the keeping out of neighbour enemies. But here in England though we haue a Lord warden of the marches northward, and a warden of the cinque ports toward the south east, and were wont to haue *Lo. Marchers* between vs and Wales, that serued this turne, yct those which we call *Marquises*, are lords of more dignity, without any such



charge: and are in honour and accompt next vnto Dukes. At this day I know but one in England, and that is the Marquis of Winchester, being of that noble familie of the Pawlets. See *Cassanous de consuetud. Burg. pag. 15.*

*Marrow*, was a lawyer of great accompt, that liued in Henry the seuenth his daies, whose learned readings are extant, but not in print. *Lamb. Eiren. li. pri. cap. 1.*

*Marterns*, see *Furre*.

*Master of the Rols* (*Magister rotulorum*) is an Assisat vnto the Lord Chauncelour of England in the high court of Chauncery, and in his absence heareth causes there, and giueth orders. *Crompt. Iurisd. fol. 41.* His title in his patent (as I haue heard) is *Clericus parue bagae, custos rotulorum & domus conuersorum*. This *domus conuersorum*, is the place where the rols are kept, so called because the Iewes in auncient times, as they were any of them brought to christianity, were bestowed in that house separatly from the rest of their nation. But his office seemeth originally to haue sprong, from the safe keeping of the Roules or records of inditements passed in the kings courts, and many other things. He is called clerke of the rols, *anno 12. R. 2. ca. 2.* and in *Fortescues* his booke, *cap.*

24. and no where master of the rols, vntil *anno 11. Hen. 7. cap. 20.* and yet *anno 11. eiusdem, cap. 25.* he is also called clerke. In which respect, *Sir Thomas Smith, li. 2. ca. 10. de Repub. Angl.* well saith that he might not vnsfly be called (*Custos Archiuorum*). He seemeth to haue the bestowing of the offices of the fixe clerks, *anno 14. & 15. Hen. 8. cap. 8.*

*Master of the mint*, *anno 2. Hen. 6. cap. 14.* he is now called the Warden of the mint, whole office, see in *Mint*.

*Master of the court of Wards and Lineries*, is the cheife and principall officer of the court of wards and lueries, named and assigned by the king, to whose custodie the seale of the court is committed. He at the entring vpon his office, taketh an oath before the Lord Chauncelour of England, well and truly to serue the King in his office, to minister equal iustice to rich & poore, to the best of his cunning, witte, and power, diligently to procure all things, which may honestly and iustly be to the kings aduantage and profit, and to the augmentation of the rights and prerogatiue of the crowne, truly to vse the kings seale appointed to his office, to endeaouour to the vitermost of his power, to see the king iustly answered of all such profits, rents, reuenewes, and issues,

issues, as shall yearly rise, grow, or be due to the king in his office from time to time, to deliuer with speed such as haue to do before him, not to take or receiue of any person any gift or reward in any case or mater depending before him, or wherein the king shall be party, whereby any prejudice, losse, hindrance, or disherison shall be or grow to the king, *4. 33. H. 8. c. 33.*

*Master of the horse*, is he that hath the rule and charge of the kings stable, being an office of high accompt, and alwaies bestowed vpon some Noble man both valiant and wise. This Officer vnder the Emperours of Rome, was called (*comes sacri stabuli.*) The Master of the horse is mentioned. *anno 39. Eliz. cap. 7. & anno prim. Ed. 6. cap. 5.*

*Master of the posts*, is an Officer of the Kings court, that hath the appointing, placing, and displacing of all such through *England*, as prouide post horse for the speedie passing of the kings messages and other buisnesse, in the through-fayre townes where they dwell: as also to see that they keepe a certaine number of conuenient horses of their owne, and when occasion is, that they prouide others, wherewith to furnish such, as haue warrant from him to take post horses, either from or to the

seas, or other borders, or places within the Realme. He likewise hath the care to pay them their wages, and make their allowance accordingly, as he shall thinke meete. This officer is mentioned, *anno 2. Ed. 6. cap. 3.*

*Master of the armorie*, is he that hath the care and ouersight of his Maiesties armour for his person or horses, or any other prouision or store thereof in any standing Armories: with command, and placing or displacing of all inferiour Officers thereunto appertaining. Mention is made of him. *anno 39. Eliz. cap. 7.*

*Master of the Jewell house*, is an Officer in the Kings houshold, of great credit, beeing allowed bouge of court, that is, diet for himselfe and the inferiour Officers. *viz.* Clerks of the Jewell house, and a speciall lodging or chamber in court, hauing charge of all plate of gold, of siluer double or parcell gilt, vsed or occupied for the Kings or Queenes board, or to any Officer of accompt attendant in court, and of all plate remaining in the Tower of *London*, of cheynes and loose Jewels not fixed to any garment. Mention is made of this Officer. *anno 39. Eliz. cap. 7.*

*Master of the Kings houshold*, (*magister hospitii*) is in his iust title called grand Master of the



Kings houshold, and beareth the same office that he did, that was wont to be called Lord Steward of the kings most honorable houshold. *anno 32. H. 8. ca. 39.* Whereby it appeareth, that the name of this Officer was then chaunged, and *Charles Duke of Suffolke*, President of the Kings Councell, then enioying that office, was so to be called euer after, so long as he should possesse that office.

*Master of the Ordinance. anno 39. El. cap. 7.* is a great Officer, to whose care all the Kings Ordinance and Artillerie is committed, being some great man of the Realme, and expert in marshall affaires.

*Master of the Chauncery (Magister Cancellaria)* is an assistant in Chauncerie to the Lord Chaunceler or Lord Keeper of the broad seale in maters of iudgement. Of these there be some ordinarie, and some extraordinary: of ordinarie there be twelue in number, whereof some sit in court euery day thorough each Terme, and haue committed vnto them (at the Lord Chauncelers discretion) the interlocutorie report, and sometimes the finall determination of causes there depending.

*Master of the Kings musters*, is a

martiall officer in all royall armies most necessarie, as well for the maintaining of the forces complete, well armed and treined, as also for preuention of such fraudes, as otherwise may exceedingly waste the Princes treasure, and extreamply weaken the forces. He hath the ouersight of all the captaines and bands, and ought to haue at the beginning deliuered vnto him by the Lord Generall, perfect lists and rolles of all the forces both horse and foot, Officers, &c. with the rates of their allowances signed by the Lord Generall, for his direction and discharge, in signifying warrants for their full pay. This Officer is mentioned in the statute, *anno 2. Ed. 6. cap. 2.* and *Mustler master generall, anno 35. Eliz. cap. 4.* who so desireth to reade more of him let him haue recourse to *Master Digs his Straticonicos.*

*Master of the Wardrobe (magister garderoba)* is a great and principall officer in Court, hauing his habitation and dwelling house belonging to that office, called the *Wardrobe neere Puddle-wharfe in London.* He hath the charge and custodie of all former Kings and Queenes auncient robes, remaining in the Tower of London, and all hangings of Arras, Tapestrie, or the like, for his Maiesties houses, with

with the bedding remaining in standing wardrobes, as *Hampton court, Richmond, &c.* He hath also the charging and deliuering out of all either Veluet or Scarlet allowed for liueries, to any of his Maiesties seruants of the priuie chamber, or others. Mention is made of this officer. *anno. 39. Eliz. ca. 7.*

*Mater in deede, and mater of record*, are said to differ. *old. nat. br. fol. 19.* where *mater in deede*, seemeth to be nothing else, but a truth to be proued, though not by any Record: and *mater of Record*, is that which may be proued by some Record. For example, if a man be siewed to an exigent, during the time he was in the kings warres, this is *mater in deede*, and not *mater of record*. And therefore (saith the booke) he that will alledge this for himselfe, must come, before the *Scire facias* for execution be awarded against him. For after that, nothing will serue but *mater of Record*; that is, some error in the proccesse appearing vpon the Record. *Kitchin fol. 216.* maketh also a difference betweene *mater of Record*, and a specialitie, and nude *mater*; where he saith, that nude *mater* is not of so high nature, as either a *mater of Record* or a specialitie, otherwise there called *mater in deede*; which ma-

keth mee to thinke, that nude *mater* is a naked allegation of a thing done, to be proued only by witnesse, and not either by Record, or other speciality in writing vnder scale.

*Mauger*, is shuffied vp of two French words (*Mal*) and (*Gre*) *id est, animo iniquo*) it signifieth with vs as much as in despight, or in despight of ones teeth. as the wise *mauger* the husbände, *Littleton fol. 124.* that is, whether the husbund will or not.

*Meane* (*Medius*) signifieth the middle betweene two extreames, and that either in time or dignitie. Example of the first: His action was *meane* betwixt the disseisin made to him and his recouerie: that is in the *interim*. Of the second there is Lord *Meane* and Tenent. See *Mesn*.

*Mease* (*Mesugium*) seemeth to come of the French (*Maison*) or rather (*Meix*) which word I finde in *Cassinens de consuetu. Burgund. pag. 1195.* and interpreted by him *Mansus*: what *Mansus* is, see *Mansio*. It signifieth a house. *Kitchin fol. 239.* and *Fitzh. nat. br. fol. 2. C.* See *Mesnage*.

*Mediese*. *Cromptons Iustice of peace, fol. 193.* is that which *Bracton* calleth (*medietum*) *ln. 2. tract. 2. ca. 35.* It seemeth to signifie quarels, scuffling, or brawling, & to be deriued from the French



(*mesler*). i. *miscere, iurbare*.

*Meere* (*Merus*) though an Adiectiue, yet is it vsed for a substantive, signifying meere right. *Owld nat. br. fol. 2.* in these words. And knowe yee, that this writte hath but two issues: that is to say, ioyning the mise vpon the meere: And that is, to put himselfe in the great assise of our Souerainge Lord the King, or to ioyne battell. See *Mise*.

*Mesurement*. See *Admesurement*.

*Medietas lingue*, signifieth an enquest empaneled vpon any cause, whereof the one halfe consisteth of Denizens, the other of straungers. It is called in English the halfe tongue, and is vsed in plees, wherein the one party is a straunger, the other a denizen. See the statute, *anno 28. Ed. 3. ca. 13. & anno, 27. eiusdem, statu: 2. ca. 8.* commonly called the statute of the Staple. & *anno. 8. H. 6. ca. 29. & anno. 2. He. 5. ca. 3. & anno. 11. He. 7. ca. 21. & anno. 1. & 2. Phi. & Mar. ca. 8.* And before the first of these statutes was made, this was wonte to be obtained of the King by graunt made to any company of straungers, as *Lombards, Almaines, &c. Statut. pl. cor. lib. 3. ca. 7.*

*Medio acquietando*, is a writ iudiciall, to dispraine a lord for

the acquiting of a meane Lord from a rent, which he formerly acknowledgeth in court not to belong vnto him. *Register indic. all, fol. 29. b.*

*Melius inquirendo*, is a writ that lyeth for a second inquiry, as what lands and tenements a man dyed seised of, where partial dealing is suspected vpon the writ, *Diem clausit extremum. Fitzh. nat. br. fol. 255.*

*Merchenlage*, was one of the three sorts of lawes, out of which the Conquerour framed lawes vnto vs, mingled with those of *Normandy. Camd. Britan. pag. 94.* who also *pag. 103.* sheweth that in the yeare of our lord 1016. this land was diuided into three parts, whereof the west Saxons had one, gouerning it by the lawes called West Saxon lawes, and that containede these nine shires, *Kent, Southsex, Southrey, Barkeshire, Hamshire, Wiltshire, Somerset, Dorset and Deuonshire.* the second by the Danes, which was gouerned by the lawes called Denelage, and that containede these fiftene shires, *Yorke, Darby, Nottingham, Lecester, Lincolne, Northampton, Bedford, Buckingham, Hertford, Essex, Middlesex, Northf. Southf. Cambridge, Huntingdon.* The third was possessed and gouerned by the Mercians, whose lawe was called *Merchenlage*. which were these eight

eight, *Glocester, Worcester, Hereford, Warwicke, Oxenford, Chester, Salop, and Stafford.* See *Lare.*

*Mercy (Misericordia)* signifieth the arbitrement or discretion of the King or Lord, in punishing any offence, not directly censured by the law. As to be in the grievous mercie of the king. *anno 11. H. 6. cap. 6.* is to be in hazard of a great penaltie. See *Misericordia.*

*Measondue, (domus Dei)* com-meth of the French (*maison de dieu*) by which names diuers Hospitals are named. You find the word, *anno 2. & 3. Philip. & Mar. cap. 23. in fine.*

*Mese, See Mease.*

*Mesn (medius)* seemeth to come from the French (*mainfne*, i. *minor natus*) it signifieth in our common lawe, him that is lord of a maner, and thereby hath tenents holding of him, yet holding himselfe of a superiour Lord. And therefore it seemeth not absurdly to be drawne from the French (*mainfne*) because the Lordship is created after the higher, whereof he holdeth. *Mesn* also signifieth a writ, which lyeth where there is Lord, *mesn*, and tenent, the tenent holding of the *mesn* by the same seruices, whereby the *mesn* holdeth of the Lord, and the tenent of the *mesn* is distrained by the superi-

our lord, for that his seruice or rent, which is due to the *mesn.* *Fitz. nat. br. fol. 135.* See *Mesnaltie.*

*Mesnaltie (medietas)* com-meth of *Mesn*, and signifieth nothing but the right of the *mesn*: as, the *mesnaltie* is extinct. *old nat. br. fol. 44.* if the *mesnalty* descend of the tenent. *Kitchin fol. 147.* For farder vnderstanding whereof, take these words out of the Customarie of Norm. *Medietate tenentur feuda, quando aliqua persona inter Dominum & tenentes. Et hoc modo tenent omnes post nati, mediante ante nato.*

*Messenger of the Exchequer*, is an Officer there, of which sorte there be foure in that court, that be Pursuyvants attending the lord Treasurer, to cary his leters and precepts. See *Pursuyvant.*

*Mesuage (mesuagium)* is a dwelling house. *West part. 2. symbol. titulo. Fines. sect. 26.* But by the name of a *mesuage* may passe also a Curtilage, a garden, an orchard, a doue house, a shoppe, a mill, as parcell of an house, as he himselfe confirmeth out of *Bracton. lib. 5. cap. 28. sect. prim.* and *Plowden fol. 199. 170. 171.* and of himselfe he auoucheth the like of a cotage, a toft, a chamber, a celler, &c. yet may they be demaunded by their single names. *Mesuagium* in Scotland, signifieth the principall dwelling



place or house within a Barony, which in our land is called a maner-house. *Skene de verb. significat. verbo*, *Mesugium*, where he citeth *Valentine Leigh*, that in his booke of Suruey he affirmeth *Mesugium* to be the tene-ment or land earable, and the dwelling house or place, or court hall thereof, to be called the site, in Latine called *Situs*.

*Mile (milliare)* is a quantitie of a thousand paces, otherwise described to containe eight furlongs, and euery furlong to containe forty lugs or poles, and euery luge or pole to containe 16. foote and a halfe. *anno 35. El. cap. 6.*

*Mulderrix. anno 1. Iacob. cap.*

24.

*Mindbruch*, is hurting of honour and worship. *Saxon* in his description of *Engl. cap. 71.*

*Minuer. See Furre.*

*Minouery. anno 7. R. 2. cap. 4.* seemeth to be compounded of two French words (*main. i. manus* and (*ouuer. i. operari*) and to signifie some trespasse or offence committed by a mans handie worke in the Forest, as an engyn to catch Deere. *Britton* vseth the verbe (*Meinoverer*) for to occupie and manure land. *cap. 40. and cap. 62. main-oure*, for handy worke. It is not vnlike, that our English (*manure*) is abbreviated of the French.

*Mint*, commeth of the Germane word, (*meunk. i. pecunia, moneta*) and it signifieth with vs, the place where the kings coyne is formed, be it gold or siluer, which is at this present, and long hath bene, the Tower of London, though it appeare by diuers stories, and other antiquities, that in auncient times the mint hath bene also at *Caleis, an. 21. R. 2. cap. 16. & anno 9 Hen. 5. stat. 5. cap. 5.* The Officers belonging to the mint, haue not bene alwaies alike. At this present they seeme to be these: The Warden, who is the chiefe of the rest, and is by his office to receiue the siluer of the Goldsmiths, and to pay them for it, and to ouersee all the rest belonging to this functiō. His fee is an hundred pounds *per annum*. The master-worker, who receiueth the siluer from the Warden, causeth it to be melted, and deliuereth it to the moniers, and taketh it from them againe, when it is made. His allowance is not any set fee, but according to the pound weight. The third, is the Controller, who is to see that the mony be made to the iust assise, to ouersee the officers, and controll them, if the money be not as it ought to be: his fee is 100. merkes *per annum*. Then is the Master of the Assaye, who weigheth the siluer, and seeth whether

whether it be according to standard: his yerely fee is also an hundred merkes. Then is the Auditour to take the accompts, and make them vp Auditor-like. Then is the Surueyor of the melting, who is to see the siluer cast out, and not to be altered after it is deliuered to the melter: which is after the Assay-master hath made triall of it. Then is the Clerke of the Irons, who seeth that the Irons be cleane, and fit to worke with. Then the Grauer, who graueth the stamper for the monies. Then the Snyters of Irons, who after they be grauen, smiteth them vpon the money. Then the Melters, that melt the Bullion, before it come to the coyning. The Blanchers, who do aneale, boyle, and cleanse the money. The Porter, who keepeth the gate of the mint. The Prouost of the mint, who is to prouide for all the monyers, and to ouersee them. Lastly, the monyers, who are some to sheere the money, some to forge it, some to beate it abroade, some to round it, some to stampe or coyn it. Their wages is not by the day or yeare, but vncertaine, according to the waight of the money coyned by them. Other officers that haue bene in former time, are said nowe to bee out of vse.

*Misaventure*, or *misadventure*, commeth neere the French (*mesadventure* .i. *infortunium*.) In our common law, it hath an especial signification for the killing of a man, partly by negligencē, and partly by chaunce. As if one thinking no harme, dissolutely throweth a stone, where with he killeth another: or shooteth an arrow, &c. For in this case he committeth not felony, but onely looseth his goods, and hath pardon of course for his life. *Stawp. pl. cor. li. 1. ca. 8. Britton ca. 7.* distinguisheth betweene *Auventure* and *misaventure*. *Auventure* he maketh to be meere chaunce, as if a man being vpon or neere the water, be taken with some sodaine sicknes, and so fall in, and is drowned, or into the fire, and be burned to death. *Misaventure* he maketh, where a man commeth to his death by some outward violence, as the fall of a tree, or of a gate, the running of a cartwheele, the stroke of a horse, or such like. So that *misaventure* in *Stawnfords opinion*, is construed somewhat more largely, then *Britton* vnderstandeth it. *West parte. 2. Symbol. titulo Inditement, sect. 48.* maketh homicide casuall, to be meere casuall or mixt. Homicide by meere chaunce, he defineth *sect. 49.* to be, when a man is slaine by meere fortune, against the



minde of the killer; as if one hewing, the axe flieth of the haffe, and killeth a man. And this is all one with *Bristons misaventure*. Homicide by chaunce mixed he defineth *sect. 50.* to be, when the killers ignorance or negligence is ioyned with the chaunce: as if a man loppe trees by an high way side, by which many vsually trauell, and cast downe a bowgh not giuing warning, &c. by which bowgh a man passing by is slaine.

*Miscontinuance*, *Kitchin fol. 231.* See *Discontinuance*.

*Mise (misa)* is a French word signifying as much as (*expensum*) in latine, and the latine word (*Misa*) is so vsed in *Kitchin fol. 144.* and in *West. parte. 2. Simbol. titulo*, Proceedings in chauncery, *sect. 21. F.* It is vsed *anno. 2. & 3. Ed. 6. ca. 36.* for a somme of mony paid by the Kings tenents in certaine counties in *Wales* according to their seuerall customes. In the statute *33. H. 8. ca. 13.* it is vsed plurally, for certaine customary gratuities sent to the Lord Marchers of *Wales*, by their tenents, at their first comming to their lands. And *anno 4. & 5. Phil. & Mar. ca. 11.* *mise* is vsed in an action of right or property, for the point whereupon the parties proceede to triall, either by Assise or battaile: as issue is in an action personall; if

the *Mise* be vpon battell. *Littleton fol. 102.* and in the *old nat. br. fol. 2.* you haue these words. Know yea that this writ hath but two issues: that is to say, ioyning the mise vpon the meere, and that is, to put himselfe into the great Assise of our soueraigne Lord the King, or to ioyne battaile, See *anno 37. Ed. 3. ca. 16.* To ioyne the mise vpon the meere, is as much to say, as to ioyne the mise vpon the cleare right, and that in more plaine terms is nothing else, but to ioyne vpon this point, whether hath the more right, the tenent or demaundant. *Littleton. li. 3. ca. 8. foll. 101. b.* This word in some other place is vsed for a participle, signifying as much as (*cast or put vpon*) in english, which appeareth by *S. Ed. Cokes report in Saffins case. vol. 6. fo. 124. a.*

*Misericordia*, is vsed in the common law, for an arbitrary punishment. *Bracton li. 4. tracta. 5. ca. 6.* in these words. *Item si quis in misericordiam inciderit pro disseisina, non remanebit misericordia exigenda, si illo qui amiserit, quesuerit conuictionem.* *Kitchin. fol. 78.* out of *Glanuile* saith thus, *Est autem misericordia, quia quis per iuramentum legalium hominum amerciatu est, ne aliquid de suo honorabili contentemento amittat.* which saying you haue in a manner word for word in *Glanuile, lib. 9.*

lib. 9. cap. 11. Fitzherbert saith, that it is called *miser cordia*, because it ought to be very moderate, and rather lesse then the offence, according to the tenure of the great charter. cap. 14. This saith Fitz. in his *nat. br.* in the writ *De moderata misericordia*, fol. 75. A. I. *Miser cordia* is to be quit of *Misericors*, that is, to be discharged of all maner of ameracements, that a man may fall into within the Forest. *Crompton. Jurisd.* fol. 196. See *Amerciament*. See *Mercy*, and *Moderata misericordia*.

*Miskenning*. i. chaunging of speech in court. *Saxon* in the description of *Engl.* cap. 11.

*Misnomer*, is compounded of the French (*mes*) which in composition alwaies signifieth as much as (*amisse*) and (*nomer*. i. *nominare*.) It signifieth in our common lawe, the vsing of one name for another, or mis-tear-ming. *Broke. titulo Misnomer*.

*Misprision* (*Mispriso*) commeth of the French (*Mespris*. i. *fastidium*, *contemptus*,) it signifieth in our common lawe, neglect, or negligence, or oversight: As for example, *Misprision* of treason, or of felony, is a neglect or light accompt shewed of treason or felony committed, by not reuealing it, when we know it to be committed; *Stawnsf. cor. li. 1. ca.*

19. which read at large: or by letting any person committed for treason or felony, or suspicio of either, to goe before he be indicted. Also *Misprision* of Clerks, anno. 8. He. 6. ca. 15. is a neglect of Clerks in wrighting, or keeping records. Thirdly, anno. 14. Ed. 3. ca. 6. *statu pri.* by *Misprision* of Clerks no proesse shalbe admitted. *Misprision* of treason, is the concealement, or not disclosing of knowne treason, for the which the offendours are to suffer imprisonment during the Kings pleasure, loose their goods, and the profits of their lands, during their liues. *Crompton in his Iustice of peace. capi. Misprision of felony*, fol. 40. *West. parte 2. symbol. titulo Inditements*, sect. 63. *in fine*. *Misprision* of felonie, seemeth only finable by the Iustices, before whome the party is attainted. *Crompton. Iustice of peace, ubi supra*. The Iustices of the common place haue power to assesse fines and ameracements vpon persons offending for misprisions, contempts, or negligences, for not doing, or misdoing any thing, in or concerning fines. *West parte 2. symbol. titulo Fines*. sect. 133. Iustices of Assise shall amend the defaults of Clerks misprising of a syllable or letter in writing. *Cromptons Jurisd.* fol. 208. But it is to be noted, that other faults may



be accompted misprisions of treasons or felonie, because certain later statutes doe inflict that punishment vpon them, that of old hath beene inflicted vpon misprisions. whereof you haue an example. *anno 14. El. ca. 3.* of such as coine foreine coines not current in this Realme, and of their procurers, aiders, and abettors. And see the newe exposition of lawe Termes. Misprision signifieth also a mistaking, *anno 14. Ed. 3. stat. pri. ca. 6.*

*Misser*, See *Mise*.

*Misuser*, is an abuse of libertie or benefite: As, he shall make fine for his *misuser*. *old. nat. br. fol. 149.*

*Mystery* (*mysterium*) commeth of the latine (*Mysterium*) or rather from the French (*Mestier*. i. *ars, artificium*) an art or occupation.

*Mittendo manuscriptum pedis finis*, is a writ Iudiciall, directed to the Treasurer and Chamberlaines of the Exchequer, to search and transmit the foote of a fine, acknowledged before Iustices in Eyre, into the common pleas, &c. *Register. fol. 14. a. b.*

*Mittimus*, signifieth a precept sent by the King out of his Bench, to those that haue the custodie of fines levied, that they send them by a day assigned to his Bench, *West parte 2. symbol.*

*in two Fynes sett. 138. F. & 154. B.* and also to the Exchequer for certificate that iudgment is giuen for the liuerie of lands to such or such a one, out of the Kings hands: whervpō he is dismissed also out of the exchequer, *a. 5. R. 2. c. 15.* of diuers other vses and applicatiōs of this (*Mittimus*) see the Register originall in the table of the booke.

*Moderata misericordia*, is a writ that lieth for him that is amerced in court Baron or other, being not of Record, for any transgression or offence beyond the qualitie of a fault. It is directed to the Lord of the court, or his Bayliffe, commanding them to take a moderate amerciamēt of the party: and is founded vpon *Magna charta, ca. 14. Quod nullus liber homo amercietur nisi secundum qualitatem delicti, &c.* The rest touching this writ, see in *Fitzh. nat. br. fol. 75.* See *Misericordia*.

*Modo & forma*, are words of art in a proccesse, and nanely in the answer of the defendant, wherby he denieth himselfe to haue done the thing layde to his charge, *modo & forma declarata. Kitch. fol. 232.* It signifieth as much, as that clause in the ciuile lawe. *Negat allegata, prout allegantur, esse vera.*

*Mouye*, commeth of the French (*Mouie*) *id est, coaqua vel medi-*

*mediapars*) and signifieth the halfe of any thing, *Littleton. fol. 125.*

*Monks clothes, anno 20. Hen. 6. cap. 10.*

*Moniers (Monetaris) Register. original. fol. 262. b. & anno 1. Ed. 6. ca. 15.* be ministers of the Mint, which make and coine the Kings mony. It appeareth by some antiquity which I haue seen that in auncient times our Kings of England had mints in most of the countries of this Realme. And in the tractate of the Exchequer, written by *Ockham*, I finde, that whereas the Shyreuees ordinarily were tyed to pay into the Exchequer the kings sterling, for such debts as they were to answer, they of *Northumberland*, and *Cumberland*, were at libertie to pay in any sort of mony, so it were siluer. And the reason is there giuen, because those two shires, *monetarios de antiqua institutione non habent.*

*Monfrance de droyt*, is as much to say, as shewing of his right. It signifieth in our common lawe, a suite in Chancerie to be restored to lands or tenements, that indeede be mine in right, though they were by some office found to be in possession of another lately dead. See *Stannf. prerog. ca. 21.* at large, and *Brooke, titulo Petition.*

of this also reade *Sir Edward Cookes reports, lib. 4. fol. 54. b. & c. the Wardens of the Sadlers case.*

*Monstrauerunt*, is a writ that lieth for tenants that hold freely by charter in auncient Demeane, being distreined for the payment of any tolle or imposition, contrary to their libertie, which they do or should enioy, which see in *Fitzh. n. r. br. fol. 14.*

*Morian*, is all one in significatiō with the french (*Morian. i. cassis*) a head peece: which word the french man boroweth from the Italian (*morione*) *anno. 4. & 5. Phi & Ma. ca. 2.*

*Morlinge, aliās Mortling.* seemeth to be that wolfe which is taken from the skinnē of a dead sheep, whether dying of the rotte, or being killed. *anno. 27. H. 6. ca. 2.* This is written *Morkin. anno. 3. Iaco. ca. 8.*

*Mort d'auncester*, See *Affise.*

*Mortgage (Mortuum vadum, vel Morgagium)* is compounded of 2. French words (*Mort, id est, mors*) and (*Gage, id est, pignus, merces*) It signifieth in our common lawe, a pawne of land or tenement, or any thing moueable, laid or bound for mony borrowed, peremptorily to be the creditours for euer, if the mony be not paid at the day agreed vpon. And the creditour holding land or tenement vpon this bargaine, is in the meane time



time called Tenēt in mortgage. Of this we reade in the grand Customarie of Normandie, cap. 113. in these wordes. *Notandum insuper est, quod vadium, quoddam vivum, quoddam mortuum nuncupatur. Mortuum autem dicitur vadium, quod se de nihilo redimit & acquietat, ut terra tradita in vadium pro centum solidis, quam cum obligator retrahere voluerit, acceptam pecuniam restituet in solidum. Vivum autem dicitur vadium, quod ex suis proventibus acquiritur. Ut terra tradita in vadium pro centum solidis usque ad tres annos, que, elapse tertio anno, reddenda est obligatori, vel tradita in vadium, quousq; pecunia recepta de eiusdem proventibus fuerit persoluta.* Glarvile likewise lib. 10. cap. 6. defineth it thus: *mortuum vadium dicitur illud, cuius fructus vel redditus interim percepti in nullo se acquietant.* Soe you see by both these bookes, that it is called a dead gage, because whatsoever profit it yeeldeth, yet it redeemeth not it selfe by yelding such profit, except the whole somme borrowed be likewise paid at the day. See *M. Skene. de verborum signif. eodem.* He that layeth this pawne or gage, is called the Mortgager, & he that taketh it, the Mortgagee. *West. par. 2. symb. titulo Fines: sect. 145.* This if it containe excellue vsurie, is prohibited, anno 37. *H. 8. c. 9.*

*Mortmaine (Manus mortua)* is compounded of two french words (*Mort. i. mors*) and *Main. i. manus*) It signifieth in the common lawe, an alienation of lands or tenements to any corporation, guilde, or fraternitie, and their successours, as Bishops, parsons, vicars, &c. which may not be done without licence of the king, and the Lord of the maner. The reason of the name proceedeth from this, as I conceive it, because the seruices and other profits due for such lands, as escheates, &c. comme into a dead hand, or into such a hand as holdeth them, and is not of power to deliuer them, or any thing for them backe againe. *Magna charta, cap. 36. & anno 7. Ed. prim.* commonly called (the statute of *Mortmaine*) and anno 18. *Ed. 3. statut. 3. cap. 3. & anno 15. Richard. 2. cap. 5. Polydor. Virgil* in the 17. booke of his Chronicles, maketh mention of this lawe, and giueth this reason of the name. *Et legem hanc manum mortuam vocarunt, quod res semel data collegiis sacerdotum, non utique rursus venderentur, velut mortue, hoc est, v sui aliorum mortalium in perpetuum adempta essent. Lex diligenter servatur sic ut nihil possessionum ordinis sacerdotalis a quoquam deus missi Regio permittitur.* But the former statutes be some thing abridged by

by anno 39. Elizabeth cap. 5. by which the gift of lands, &c. to Hospitals is permitted without obtaining of Mortmaine. *Hotoman* in his commentaries *de verbis feudal. verbo Manus mortua*, hath these words. *Manus mortua locutio est, que usurpatur de ys, quorum possessio, ut ita dicam, immortalis est: quia nunquam heredem habere desinunt. Quā de causā res nunquam ad priorem dominum reuertitur. Nam manus pro possessione dicitur, mortua pro immortalis. Sic municipium dicitur non mori, l. An ususfructus 56. D. de usufr. legat. quoniam hominibus alius succrescentibus, idem populi corpus videtur. l. proponebatur. 76. D. de Iudiciis: Hec Hotomanus. & read therest. Amortizatio, est in manum mortuam translatio Principis iussu. (circa Belluga in speculo principum: fol. 76. Ius amortizationis est licentia capiendi ad manum mortuam. Idem, eodem. where you may reade a learned tractate both of the beginning and nature of this doctrine. To the same effect you may read *Cass. de consuetu. Burg. pag. 348. 387. 1183. 1185. 1201. 1225. 1285. 1218. 1274. M. Skene de verborum signif.* saith that *Dimittere terras ad manum mortuam, est idem atque dimittere ad multitudinem sive universitatem, qua nunquam moritur: idq; per contraxionem, seu a contrario sensu, because communalities neuer die.**

*Mortuary ( Mortuarium )* is a gift left by a man at his death, to his parish church, for the recompence of his personall tithes and offerings not duly payed in his life time. And if a man haue three or more catell of any kind, the best being kept for the lord of the fee, as a *Heriot*, the second was wont to be giuen to the persō in right of the church, *cap. statutum. De consuetu. in provincial.* Touching this you haue two statutes. one anno 13. *Ed. pri.* commonly called, *Circumspectè agatis*: whereby it appeareth, that Mortuaries are suable in the court Christian; the other anno 21. *H. 8: cap. 6.* whereby is set downe an order and rate in money for mortuaries.

*Mulier*, as it is vsed in the common lawe, seemeth to be a word corrupted and vsed for (*Melior*) or rather the French (*Melieur*). It signifieth the lawfull issue preferred before an elder brother borne out of matrimony: anno *H. 6. cap. 11. Smith de repub. Anglo. lib. 3. cap. 6.* But by *Glannile lib. 7: ca. pri.* the lawfull issue seemeth rather (*Mulier*) then (*Melior*) because it is begotten (*i Muliere*) and not (*ex Concubina*). for he calleth such issue *filios mulieratos*, oppesing them to bastards. And *Britton cap. 70.* hath *frere mulier* i. the brother begotten of the wife,



opposir to *frere bastard*. This seemeth to be vsed in Scotland also, for *M. Skene de verborum signifi. verbo* (*Mulieratus filius*) saith that *Mulieratus filius*, is a lawful son begotten of a lawful wife. *Quia mulieris appellatione uxor continetur. l. Mulieris 13. & ibid. glossa de verborum significati-  
ne.*

*Mulmutius lawes*, See *Lawe*.

*Multure* (*molitura, vel multura*) commeth neare the French, (*moulture*) and signifieth in our common lawe, the tolle that the miller taketh, for grinding of corne.

*Murage*, (*muragium*) is a tolle or tribute to be leuied for the building or repaying of publike edifices or walles. *Fitz. nat. br. fol. 227. D.* *Murage* seemeth also to be a libertie graunted by the King to a towne, for the gathering of money toward walling of the same. *anno 3. Ed. 1. cap. 30.*

*Murder* (*murdrum*) is borrowed of the French, (*meurtrier. i. carnifex, homicida*) or (*meurtre. i. internecio, homicidium,*) The new Expositour of the lawe termes draweth it from the Saxon word, (*mordren*) signifying the same thing. It signifieth in our common lawe, a wilfull and felonious killing of any other vpon prepenſed malice. *anno 52. H. 3. cap. 25. West. part.*

2. *symbol. titulo, Inditeiments. sect. 47. Bracton. lib. 3. tract. 2. cap. 15 num. prim.* defineth it to be *Homicidium, quod, nullo prasente, nullo sciente, nullo audiente, nullo vidente, clam perpetratur.* And of the same minde is *Britton. cap. 6.* as also *Fleta, lib. 1. cap. 30.* yet *Fleta* saith also, that it was not murder, except it were proued the partie slaine were English, and no straunger. But as *Stawnf.* saith, *pl. cor. lib. 1. cap. 2.* the lawe in this point is altered, by the statute, *anno 14. Ed. 3. cap. 4.* and murder is now otherwise to be defined. When a man vpon prepenſed malice killeth another, whether secretly or openly, it maketh no mater: or be he an English man, or a forainer liuing vnder the Kings protection. And prepenſed malice is here either expresse or implied: expresse, when it may be euidently proued, that there was formerly some euill will implied: when one killeth another sodainly, hauing nothing to defend himselfe: as going ouer a stile, or such like. *Crompton. Iustice of peace, in the chapter of Murder. fol. 19. b.* See *M. Skene de verbor. signif. verbo, Murdrum.* This by the Latine Interpretour of the graund Customarie of *Normandy*, is called *multrum. cap. 68.* See *Were.*

*Muster*, commeth of the French

(*mouſtre* .i. *specimen*, *ſpectamen*, *exemplum*;) as, *ſeire mouſtre generale de toute ſon armee*, is as much as, *luſtrare exercitum*. The ſignification is plaine. Muſtered of record. *anno* 18. *H.* 6. *cap.* 19. ſeemeth to be *dare nomen*, or to bee inrolled in the number of the kings ſouldiours. *Maſter of the kings muſters.* *anno* 2. *Ed.* 6. *cap.* 2. See *Maſter*.

*Maſter maſter general.* *anno* 35. *Eliz.* *ca.* 4. See *Maſter of the kings muſters*.

## N

**N***Naam* (*Namium*) ſeemeth to come from the Dutch word (*namen* .i. *capio*) It ſignifieth in our common law, the taking or apprehending of another mans moueable goods: and is either lawfull or vnlawfull. Lawfull *naam*, is nothing e'ls but a reaſonable diſtreſſe, proportionable to the valew of the thing diſtreined for. And this *naam* was aunciently called either *viſ* or *mort*, quicke or dead, accordingly as it was made of dead or quicke chatels. Lawfull *naam* is ſo, either by the common law, or by a mans perticular fact: by the common law, as when one taketh another mans beaſts damage ſeſant in his grounds: by a mans perticular fact, as by reaſon of ſome contract made,

that for default of payment of an annuity agreed vpon, it ſhall be lawfull to diſtreine in ſuch or ſuch lands, &c. *Horns mirrour of Juſtices. lib.* 2. *ca.* de *vec de naam*. where you may read of other circumſtances required in lawfull *naam*: *viz*: of what thing, or of what things firſt, in what manner, on what daies, and at what houres it ought to be made; with other points worth the reading, for the vnderſtanding of our law antiquities. See *Withernam*.

*Naffe.* *anno* 4. *H.* 7. *ca.* 21. ſeemeth to be the proper name of *Orford Hauen*. Whether it be ſo termed of the boates or water veſſels that lye there or not, let the reader iudge. But (*nasselle*) is in French a kinde of ſmall boat.

*Natino habendo*, is a writ that lyeth to the Shyreene for a Lord, whoſe vilen claimed as his inheritance, is runne from him, for the apprehending and reſtoring of him to his Lord againe. *Regiſter orig. fol.* 87. *Fitzh. nat. br. fol.* 77. See *Liberate probanda*.

*Naturalization.* See *Denizen*.

*Ne admittas*, is a writ that lyeth for the plaintife in a *Quare impedit*, or him that hath an action of *Darrein preſentment* depending in the common Bench, and ſeareth that the Biſhop will admit the clerke of the defendant, during the ſuite betweene



them. And this writ must be sued within fixe monethes after the avoydance. Because after the fixe moneths the Bishop may present by lapse. *Register orig. fol. 31. Fitzh. nat. br. fol. 37.* where see the rest.

*Negative pregnant* (*Negativa pregnans*) is a negative implying also an affirmative. As is a man being impleaded, to haue done a thing vpon such a day, or in such a place, denyeth that he did it *modo & forma declarata*: which implyeth neuer the lesse, that in some sort he did it. Or if a man be said to haue alienated land, &c. in fee, he denying that he hath alienated in fee, seemeth to confesse that he hath alienated in some other sort. *Dyer. fol. 17. nu. 95.* See *Brooke hoc titulo* and *Kitchin. fol. 232.* And see the new exposition of lawe terms. And read also in some Ciuilians, of *Affirmativa pregnans*, and that is, *que habet in se inclusiuam negativam. Et hoc importare videntur dictiones (Solum & tantum, que implicans negativam) Pacianus. De probationibus. lib. 1. ca. 31. nu. 16. fol. 93.*

*Neif* (*natius*) commeth of the French (*Nais. i. naturalis, vel nationis*) it signifyeth in our common law, a bond woman, *anno. 1 Ed. 6. ca. 3.* the reason is, because women become bond rather *natiuitate*, than by any other means.

*Ne iniuste vexes*, is a writ that lyeth for a Tenent, which is distreined by his Lord, for other seruices than he ought to make, and is a prohibition to the Lord in it selfe, commaunding him not to distreine. The especial vse of it is, where the tenent hath formerly preiudiced himselfe by performing more seruices, or paying more rent without constraint, than he needed. For in this case, by reason of the Lords seisin, he cannot auoide him in avowry: and therefore he is driuen to this writ as his next remedie, *Register orig. fol. 4. Fitzh. nat. br. fol. 10.*

*Ne vicecomes colore mandati Regis quengnam amoueatur à possessione ecclesie minus iuste.* *Register orig. fol. 61.*

*Nient comprise*, is an exception taken to a petition as vniuert, because, the thing desired, is not contened or comprehended in that act or deede, wherevpon the petition is grounded. For example, one desireth of the court, to be put in possession of a house formerly among other lands &c. adiudged vnto him. The aduerse party pleadeth, that his petition is not to be granted, because thogh he had a iudgement for certaine lands and houses: yet the house into the possession wherof he desireth to be put, is not contened among those for the which he had

had iudgement. See the newe booke of Entries. *titulo, Nient comprise*. This seemeth to be especially to hinder execution.

*Nisfe*, anno 3. Ed. 4. cap. 5.

*Nihil. anno. 5. R. 2. stat. pri. cap. 3.* is a word set vpon a debt illeuiable, by the foreine Apposer in the Exchequer.

*Nihil dicit*, is a sayling to put in answer to the plee of the plaintiffe by the day assigned, which if a man do commit, iudgement passeth against him, as saying nothing why it should not.

*Nisi prius*, is a writ iudiciall, which lyeth in case, where the Enquest is paneled, and returned before the Iustices of the Banke, the one partie or the other making petition, to haue this writ for the case of the contric. It is directed to the Shyreuee, commaunding that hee cause the men impaneled to come before the Iustices in the same countie, for the determination of the cause there, except it be so difficult, that it need great deliberation. In which case it is sent againe to the Bank, *v. anno 14. Ed. 3. cap. 15.* The forme of the writ, see in *old. nat. br. fol. 159.* and in the *Regist. indic. fol. 7. & 28. & 75.* See the new booke of Entries, *verbo, Nisi prius*. And it is called (*Nisi prius*) of these words comprised

in the same, whereby the Shyreuee is willed to bring to *Westminst.* the men impaneled at a certaine day, or before the Iustices of the next Assises: *nisi die Lune apud talem locum prius venerint, &c.* whereby it appeareth, that Iustices of Assises, and Iustices of (*nisi prius*) are differing. And Iustices of (*nisi prius*) must be one of them, before whom the cause is depending in the Bench, with some other good man of the Countie associated vnto him. *Fitz. nat. br. fol. 240. E.* which he taketh from the Statute of Yorke. *ann. 12. Ed. 2. See Westm. 2. cap. 30. anno 13. Ed. prim. & anno 27. eiusdem. cap. 4. & anno 2. Ed. 3. cap. 17. & anno 4. eiusdem, cap. 11. & anno 14. eiusdem cap. 16. & anno 7. Rich. 2. cap. 7. & anno 18. Eliz. cap. 12.*

*Nobility (nobilitas)* in England compriseth all dignities aboue a Knight. So that a Baron is the lowest degree thereof. *Smith de Repub. Anglor. lib. prim. cap. 17.* *Bartolus* in his Tractate *De Nobilitate*, which he compiled vpon the lawe, *Si ut proponis C. de dignitatibus, libro. 12.* rehearseth foure opinions *de Nobilitate*, but reiecteth them, and himselfe defineth it thus: *Nobilitas est qualitas illata per principatum tenentem, qua quis ultra honestos plebeios acceptus ostenditur.* But



this definition is too large for vs, except we will accompt Knights and Banerets *inter plebem*, which in mine opinion were too harsh. For *Equites* among the Romanes, were in a middle ranke *inter Senatores & plebem*.

*Nocumento*. See *Nusance*.

*Nomination* (*nominatio*) is vsed by the Canonills, and common Lawyers, for a power that a man by vertue of a maner or otherwise, hath to appoint a Clerke to a patron of a benefice, by him to be presented to the Ordinarie. New termes of the lawe.

*Non-abilite*, is an exception taken against the plaintiffe or demandant vpon some cause, why he cannot commence any suite in lawe, as a *Premunire*, *Outlawrie*, *Villenie*, *Excommunication*: or becaule he is a stranger borne. The Ciuilians say, that such a man hath not *personam standi in iudicio*. See *Broke, hoc titulo*, see *Fitzb. nat. br. fol. 35. A. fol. 65. D. fol. 77. C.* The new Expositour of lawe termes reckoneth fixe causes of *Non-abilty*: as if he be an outlawe, a stranger borne, condemned in a premunire, professed in religion, excommunicate, or a villein. Howbeit the second cause holdeth onely in actions reall or mixt, and not in personall, except

he be a stranger and an enemy.

*Non admittas*. See *Ne admittas*.

*Non-age*, is all the time of a mans age vnder one and twenty yeares in some cases, or fourteen in some, as in marriage. See *Broke, titulo, Age*. See *Age*.

*Non capiendo clericum*. See *Clerico non capiendo*.

*Non clayme*, *Cromptons Jurisd.* fol. 144. seemeth to be an exception against a man that claimeth not within the time limited by lawe, as within the yeare and day, in case where a man ought to make continuall claime, or within five yeares after a fine leuyed. *v. Coke. lib. 4. in proamio*. See *Continuall clayme*.

*Non compos mentis*, is of foure sortes: first, he that is an idiot borne: next, he that by accident afterward wholly leeseeth his wits: thirdly, a lunaticke, that hath sometime his vnderstanding, and sometime not: lastly, hee which by his own act depriveth himselfe of his right mind for a time, as a drunkard, *Coke lib. 4. fol. 124. b.*

*Non distringendo*, is a writ, comprising vnder it diuers particulars, according to diuers cases: all which you may see in the Table of the *Register original, verbo, Non distringendo*.

*Non est culpabilis*, is the generall

nerall answer to an action of trespassie, whereby the defendant doth absolutely deny the fact imputed vnto him by the plaintiffe, whereas in other especiall answers, the defendaunt graunterh the fact to be done, and alledgeth some reason in his defence, why he lawfully might doe it. And therefore whereas the Rhetoricians, comprise all the substance of their discourses, vnder three questions, *An sit, quid sit, quale sit*, this aunswere falleth vnder the first of the three: all other answers are vnder one of the other two. And as this is the generall aunswere in an action of trespassse, that is, an action criminall ciuily prosecuted: so is it also in all actions criminally followed, either at the suite of the king or other, wherein the defendant denieth the crime objected vnto him. See the new booke of Entries. *titulo, Non culpabilis*, and *Starrnf. pl. cor. lib. 2. cap. 62.*

*Non est factum*, is an aunswere to a declaration, whereby a man denyeth that to be his deed, whereupon he is impleaded. *Broke, hoc titulo.*

*Non implacitando aliquem de libero tenemento sine breui*, is a writ to inhibit Bayliffes, &c. from distraining any man without the kings writ, touching his free hould. *Register, fol. 121. b.*

*Non intromittendo quando breue prapice in capite subdole impeiratur*, Is a writ directed to Iustices of the bench or in Eyre, willing them not to giue one hearing, that hath vnder the colour of intitling the king to land, &c. as houlding of him *in capite*, deceitfully obtained the writ called: *prapice in capite*. but to put him to his writ of right, if he thinke good to vse it. *Register orig. fo. 4. b.*

*Non mercandizando vidualia*, is a writ directed to the Iustices of Assise, commaunding them to inquire whether the officers of such a towne, doe sell victuals in grosse or by retaile, during their office, contrary to the statute, and to punish them, if they finde it true. *Register, fol. 184.*

*Non molestando*, is a writ that iyeth for him, which is molested contrary to the kings protection graunted him. *Register fol. 24.*

*Non omittas*, is a writ lying where the Shyreue deliuereth a former writ to a Bayliffe of a fraunchis, within the which the party, on whom it is to be serued, dwelleth, & the Bayliffe neglecteth to serue it: for in this case, the Shyreue returning, that he deliuered it to the Bayliffe, this shalbe directed to the Shyreue, charging him himselfe to execute the kings commaundement. *O'd. nat. br. fol. 44.* of this the

Reg.



*Reg. orig.* hath three sorts. *fol.* 82. b. & 151. and the *Reg. Iudicial* one, *fol.* 5. & 56.

*Non ponendo in Assisis & Iuratis*, is a writ founded vpon the *stat. Westm.* 2. *ca.* 38. and the *stat. Articuli super chartas.* *ca.* 9. which is graunted vpon diuers causes to men, for the freeing them from Assises and Iuries. See *Fitzb. nat. br. fol.* 165. See the *Register. fol.* 179. 100. 181. 182.

*Non procedendo ad Assisam Rege inconsulto*, is a writ to stop the triall of a cause appertaining vnto one, that is in the kings seruice, &c. vntill the kings pleasure be farther knowne. *Reg. fol.* 220. a.

*Non residentia pro clericis Regis*, is a writ directed to the Ordinary, charging him not to molest a Clerk imployed in the kings seruice, by reason of his *non residence*. *Register orig. fol.* 58. b.

*Non-suite*, is a renuntiation of the suite by the plaintife or demandant, when the mater is so farre proceeded in, as the Iury is ready at the barre, to deliuer their verdict. *anno* 2. *H. 4. ca.* 7. See the new booke of *Entries, verbo Non-suite*. The ciuilians terme it *Litis renunciationem*.

*Non soluendo pecuniam ad quam Clericus mactatur pro non residentia*, is a writ prohibiting an Ordinary to take a pecuniary mulct, imposed vpon a clerk of the

kings for *non-residence*. *Regist. orig. fol.* 59.

*Non tenure*, is an exception to a coumptr, by saying that he houldeth not the land specified in the coumptr, or at the least, some parte of it. *anno* 25. *Ed.* 3. *stat.* 4. *ca.* 16. *West parte.* 2. *Symbol. titulo. Fines. sect.* 138. maketh mention of *non-tenure* generall, and *non-tenure* speciall. See the new booke of *Entries, verbo Non-tenure*. where it is said, that especiall *non-tenure* is an exception, alledging that he was not tenant the day whereon the writ was purchased. *Non-tenure* generall is then by likelyhood, where one denyeth himselfe euer to haue bene tenant to the land in question.

*Non sum informatus*. See *Informatus non sum*.

*Non sane memorie* (*Non sane memoria*) is an exception taken to any act declared by the plaintife or demandant to be done by another, wherupon he groundeth his plaint or demand. And the contents of this exceptio be, that the party that did that act (being himselfe or any other) was not well in his wits, or madde, when he did it. See the new booke of *Entries, titulo Non sane memory.* and *Dum non fuit compos mentis*. See also, *supra Non compos mentis*.

*Non terme* (*non terminus*) is the time

time of vacation between Terme and Terme. It was wont to be called the times or dayes of the kings peace, *Lamb. Archæion. fol. 126.* and what these were in the time of King Edward the Confessour, see there. This time was called (*Iusticium*) or (*Feria*) among the Romanes, or (*dies nefasti*) *Feris appellari notum est tempus illud, quod forensibus negotiis & iure dicendo vacabat. Eorum autem alia solennes erant, alia repentina. Brissou. de verb. signif. lib. 6. vide Wesenbec: paratit. De Feris. num. 6.*

Note of a fine, (*nota finis*) is a brieve of a fine made by the Chirographer, before it be engrossed. The forme whereof see in *West. part. 2. symbol, titulo. Fines. sect. 117.*

Novell assignement (*nova assignatio*) is an assignement of time, or place, or such like, otherwise then as before it was assigned. In Brocke you may find these wordes in effect: *titulo, Deputie. num. 12.* See novell assignement of trespassse in a new place after Barre pleaded. *Broke. titulo. Trespassse. 122.* and, novel assignement in a writ de electione custodie. *titulo, Electione custodie. num. 7.* See Assignement.

Nude mater. See *Mater.*

Nunno (*Nonna*) is the French word (*nonnain*) or (*nonne*) something altered, which signifieth

a holy or consecrated virgin, or a woman that hath by vowe bound her selfe to a single and chaste life, in some place and company of other women, separated from the world, and addicted to an especiall service of God, by prayer, fasting, and such like holy exercises If we wold know whence this word came into Fraunce, *S. Hierome* maketh it an Egyptian word, as *Hosfrian* recordeth of him, in his booke *De origine & progressu monachatus. fol. 3.*

*Nuper obit*, is a writ that lyeth for a coheire being desorced by her coheire of lands or tenements, whereof the graundfather, father, vncle, or brother to them both, or any other their common auncesters, dyed seised of an estate in fee simple. See the forme of the writ, *origin. Regist. fol. 226. &c. Fitz. nat. br. fol. 197.* If the auncestour dyed seised in fee tayle, then the coheire desorced shall haue a *Formdon.* *Idem. ibid.*

*Nusance* (*nocumentum*) cometh of the French (*nuire. i. nocere.*) It signifieth in our common lawe, not onely a thing done, whereby another man is annoyed in his free lands or tenements, but especially the Assise or writ lying for the same. *Fitz. nat. br. fol. 183.* And this writ (*de Nocumeto*) or of *Nu-*



sance is either simply *De nocumento*, or *de paruo nocumento*; and then it is *Vicountiel. old. nat. br. f. 108. & 109. & Fitzh. nat. br. ubi supra. & fol. 184.* Britton calleth it *Nofance*, whome also reade. *ca. 61. & 62. M. Manwood parte 2 of his forest lawes. ca. 17.* maketh three sorts of *Nofance* in the forest, the first is *Nocumentum commune*, the second *Nocumentum speciale*, the third *Nocumentum generale*. which reade with the rest of that whole chapter. See the *Register originali. fol. 197. & 199.*

*Nutmegs (nux myristica vel nux maseata)* is a spice well knowne to all. It groweth of a tree like a peach tree, and is inclosed in two huskes, whereof the inner huske is that spice which we call mace. Of this who will, may reade more in *Gerards herball, lib. 3. ca. 145.* It is mentioned among spices that are to be garbled. *anno 1. laco. ca. 19.*

## O

**O**bedientie, was a rent, as appeareth by *Roger Hoveden parte poster: suorum annalium, fol. 430.* in these words: *ut ergo eis, sc: regularibus, admatatur oportunitas evagandi, prohibemus, ne reditus, quos obedientias vocant, ad firmam teneant, &c.* *Obedientia* in the canon lawe is vsed for an office or

the administration of an office. *ca. cum ad monasterium. 6. extra de statu monacho: & cano. regula.* And therevpon the word (*obedientiales*) is vsed in the provincially constitutions for those which haue the execution of any office vnder their superiors. *cap. pri. de statu. regula.* For thus saith *Lyndwood* in his glosse vpon that word: *Hu sunt qui sub obedientia suorum prelatorum sunt, & habent certa officia administranda interius vel exterius.* It may be that some of these offices called *obedientie* consisted in the collection of rents or pensions: and that therefore those rents were by a metonymie called *obedientie*, quia colligebantur ab obedientialibus.

*Oblations (oblationes)* are thus defined in the canon lawe. *Oblationes dicuntur, quaecumq; a piis fidelibusq; Christianis offeruntur Deo & ecclesie, siue res soli, siue mobiles sint. Nec refert an legentur testamento, an aliter donentur, cap. clerici. 13. quest. 2.* Reade more of these in *Duarenus. De sacr. eccl. minister. ac benefi. cap. tertio.*

*Obligation (Obligatio)* and *Bill* be all one, sauing that when it is in English, it is commonly called a *Bill*, and when it is in Latine, an *Obligation*. *West parte 1. symbol. lib. 2. sect. 146.* True it is that a *Bill* is obligatorie: but we commonly call that an obli-

obligation, which hath a condition annexed. The former author in the same place saith thus farther. An obligation is a deede, whereby the obligour doth knowledge himselfe to owe vnto the Obligee, a certaine summe of money or other thing. In which, besides the parties names, are to be considered the thing due, and the time, place and maner of payment, or deliuerie. Obligations be either by mater in deede, or of record. An obligation by mater indeede is euery obligation not acknowledged & made in some court of record. *Hiberto M. West.*

*Occupauit*, is a writ that lieth for him, which is eiection out of his land or tenement in time of warre: as a writ of *Novel disseisin* lieth for one eiection in time of peace. *Ingham §. Bref de novel disseisin.*

*Offotales*. See *Tales*: See *Brooke ut. Offotales.*

*Odio & atia*, anno 3. Ed. 1. ca. 11: is a writ sent to the vnder-shyreene, to inquire whether a man being committed to prison vpon suspicion of murder, be committed vpon malice or euill will, or vpon iust suspicion. *Register originali, fol. 133. b. See Bracton li. 3. parte 2. ca. 20.*

*Office (Officium)* doth signifie not onely that function, by ver-

tue whereof a man hath some imploiment in the affaires of another, as of the King or other common person; but also an Inquisition made to the Kings vse of any thing by vertue of his office who inquireth. And therefore wee oftentimes reade of an office found, which is nothing but such a thing found by Inquisition made *ex officio*. In this signification it is vsed. anno 33. H. 8. cap. 20. and in *Starnfords prerog. fol. 60. & 61.* where to trauers an office, is to trauers the inquisition taken of office. And in *Kitchin fol. 177.* to returne an office, is to returne that which is found by vertue of the office, see also the newe booke of *Entries, verbo Office pur le Roy*. And this is by a metonymie of the effect: And there be two sorts of offices in this signification, issuing out the exchequer by commission *viz.* an office to intitule the King in the thing inquired of, and an office of instruction. which reade in *Sir Edm. Cokes reports, vol. 6. Pages case. fol. 52. a. b.* Office in fee, is that which a man hath to himselfe and his heires, anno 17. Ed. 1. ca. 25. *Kitchin fol. 152. See Clerk.*

*Official (officialis)* is a word very diversly vsed. For by sundry Ciuilians of other countries, that write in these daies, it appeareth to be applied in many



places, to such as haue the sway of temporall iustice. *Agidius Bassius in pract. crim. tit. De officialibus corruptis, &c.* But by the auncienter ciuile lawe, it signifieth him, that is the minister or apparitor of a magistrate or Iudge. *l. 1. §. si quis ultro. π. de questio. & Co. de filiis officialium, &c. li. 12.* In the Canon lawe, it is especially taken for him, to whome any Bishop doth generally commit the charge of his spirituall iurisdiction. And in this sence one in euery Dioces is (*officialis principalis*) whome the statutes and lawes of this Kingdome call chanceler. *anno. 32. H. 8. cap. 15.* Therest, if there be more, are by the canō law called *officiales foranei*. *glos. in clem. 2. de Rescriptis*, but with vs termed *Cōmissaries* (*Commissarii*) as in the statute of *H. 8.* or some times (*Commissarii foranei*.) The difference of these 2. powers you may reade in *Lyndwood, titulo de sequestra poffes. ca. 1. verba. Officialis*. But this word (*official*) in our statutes and common lawe signifieth him, whom the Archdeacon substituteth in the executing of his iurisdiction, as appeareth by the statute aboue mentioned and many other places.

*Officiarius non faciendis vel amovendis*, is a writ directed to the magistrates of a corporatiō,

willing them not to make such a man an officer, and to put him out of the office he hath, vntill enquirie be made of his maners, according to an inquisition formerly ordeined. *Register originall, fol. 126. b.*

*Onerando prorata portionis*, is a writ that lieth for a ioint tenent, or tenent in common, that is distreined for more rent, then the proportion of his land cometh vnto. *Reg orig. f. 182. a.*

*Open Lawe* (*Lex manifesta, Lex apparens*) is making of Lawe. which by *Magna charta ca. 28.* Bayliffes may not put men vnto vpon their owne bare assertions, except they haue witnesses to proue their imputation.

*Orchel. anno. 1. R. 3. ca. 8. Orchall anno. 24. H. 8. ca. 2. & anno. 3. & 4. Ed. 6. ca. 2.* seemeth to be all one with cork.

*Ordinance of the forest* (*Ordnatio Forestae*) is a statute made touching forest causes in the 34. yeare of *Edward. 1.* See *Assise*.

*Ordinarie* (*Ordinarius*) though in the ciuil lawe, whence the word is taken, it doth signifie any iudge that hath authoritie to take knowledge of causes in his owne right, as he is a magistrate, and not by deputation: yet in our common lawe, it is most commonly, and for ought I remember, alway taken for him, that

that hath ordinarie Iurisdiction in causes ecclesiasticall. See *Brooke hoc titulo. Lindwood in cap. exterior. titulo de Constitutionibus. verbo Ordinarii*, saith quod *Ordinarius habet locum principaliter in Episcopo, & aliis superioribus, qui soli sunt uniuersales in suis iurisdictionibus, sed sunt sub eo alii ordinarii, huius viz. quibus competit Iurisdictione ordinaria de iure, privilegio, vel consuetudine, &c. v. c.*

*Ordinatione contra seruientes*, is a writ that lieth against a seruant for leauing his master against the statute: *Register originall, fol. 189.*

*Ordel (Ordalum)* is a Saxon word, signifying as much as Iudgement, in some mens opinions compounded of two Saxon words (or) a *primative*, as (a) in greeke, and (dal .i. pars) It signifieth as much as *expers*: but it is artificially vsed for a kind of purgation practized in auncient times: whereby the party purged, was iudged *expers criminis*, called in the canon lawe *purgatio vulgaris*, and viterly condemned. There were of this two sorts, one by fire, another by water. Of these see *M. Lamberd in his explication of Saxon words. verbo Ordalum*, where he expresseth it at large, with such superstitions as were vsed in it. Of this you may likewise read *Holinshed in his descrip-*

*tion of Britanie fol. 98.* and also *M. Manwood, parte pri. of his forest lawes, pag. 15.* But of all the rest, *Hotoman* especially, *disput. de feud. ca. 41.* where of siue kinde of proofes, which he calleth *feudales probationes*, he maketh this the fourth, calling it *explorationem*, & *huius furiosa probationis 6. genera fuisse animadvertit, per flammam, per aquam, per feruum candens, per aquam vel gelidam vel feruentem, per sortes, & per corpus Domini*, of all which he alledgeth seuerall examples out of historie, very worthie the reading. See *M. Skene* also *de verbor. significatione. verbo (Machamini)* This seemeth to haue bene in vse here with vs in *Henry* the seconds dayes, as appeareth by *Glanvile. lib. 14. cap. 1. & 2.* Reade also of this in *M. Verslegans* *Restitution of decayed intelligence. cap. 3. pag. 63. & seqq.*

*Orsgild, aliàs, Cheapegild*, is a restitution made by the Hundred or Countie, of any wrong done by one that was in *plegio*. *Lamberd. Archaion. pag. 125. & 126.*

*Orges, anno, 31. Ed. 3. stat. 3. cap. 2.* is the greatest sort of North sea-fish, now adaies called *Organ ling.*

*Oredelfe*, is a liberty whereby a man claimeth the Ore found in his soyle. New exposition of



Termes.

*Orielli*, is a word vsed in the booke termed (*pupilla oculi*) in the chapter containing the charter of the Forest. *parte 5. cap. 22.* and signifieth the clawes of a dogges foote, being taken from the French, *orreils des pieds. i. digui pedum*, the tocs.

*Osmonds, anno 32. Henr. 8. cap. 14.*

*Oath of the King*, (*Iuramentum Regis*) is that which the King taketh at his Coronation, which in *Bracton* is set downe in these words. *Debet Rex in coronatione sua, in nomine Iesu Christi prestare sacramento hoc tria promittere populo sibi subdito: In primis se esse precepturum & pro viribus opem impensurum ut ecclesia dei & omni populo Christiano vera pax omni suo tempore observetur. Secundo, ut rapacitates & omnes iniquitates omnibus gradibus interdicit: 3. ut in omnibus iudiciis equitatem precipiat & misericordiam, ut indugeat ei suam misericordiam clemens & misericors Deus. & ut per Iustitiam suam firma gaudeant pace universi.* And in the old abridgement of statutes set out in *H. 8.* daies, I finde it thus described. This is the oath that the King shall sweare at his coronation: That he shall keepe and maintaine the right and the liberties of the holy church, of old time graunted by the righteous Christian

Kings of England, and that he shall keepe all the lands, honours, and dignities righteous and free of the Crowne of England in all maner whole, without any maner of minishment, and the rights of the Crowne hurt, decayed, or lost, to his power shall call againe into the auncient estate, and that he shall keepe the peace of the holy church and of the clergie, and of the people with good accord: and that he shall doe all his iudgements equitie and right iustice with discretion and mercie: and that he shall graunt to hold the lawes & customes of the realme, and to his power keepe them, and asserme them, which the folke and people haue made and chosen: and the euill lawes and customes wholly to put out: and stedfast and stable peace to the people of this realme keepe and cause to be kept to his power: and that he shall graunt no charter, but where he may doe it by his oath. All this I finde in the foresaide Booke, *titulo. Sacramentum Regis. and Charter of pardon. quinto.*

*Oath of the Kings Iustices* is, that they well and truly shall serue the king, and that they shall not assent to things, that may turne to his damage or disheritance. Nor that they shall take

no fee nor luerie of none but the king. Nor that they shall take gift nor reward of none that hath adoe before them, except it be meate and drinke of final value, as long as the plee is hanging before them, nor after for the cause. Nor that they shall giue counsell to none in mater that may touch the King, vpon paine to be at the kings will, body and goods. And that they shall doe right to euery person, notwithstanding the Kings letters, &c. anno 18. Ed. 3. *statut. 4.* which the old abridgement maketh to be anno 20. *eiusdem statuto per se.*

Otho, was a Deacon Cardinall of *S. Nichens in carcere Tulliani*, and Legate for the Pope heere in England, anno 22. H. 3. whose constitutions we haue at this day: *Stoues An. pa. 303.* & see the first constitution of the said Legat.

Othobonus was a Deacon Cardinall of *S. Adrian*, and the Popes legate heere in England anno 15. H. 3. as appeareth by the award made betweene the said King and his commons, at *Kenelworth*. his constitutions we haue at this day in vse.

Ouch, anno 24. H. 8. ca. 13.

Ouster le main (*Amouere manum*) word for word, signifieth to take off the hand, though in true French, it should be (*Oster la main*) It signifieth in the com-

mon law, a Iudgement giuen for him that tendeth a trauers, or sheweth a *Monstrance de droit*, or petition. For when it appeareth vpon the mater discussed, that the King hath noe right nor title to the thing he seised, then Iudgement shalbe giuen in the Chauncery, that the kings hands be amoued, and thereupon *Amoueas manum* shalbe awarded to the Escheatour: which is as much, as if the iudgement were giuen, that he should haue againe his land. v. *Stann. prerog. ca. 24.* See anno 28. Ed. 1. *stat. 3. ca. 19.* It is also taken for the writ graunted vpon this petition. *Fitzh. nat. br. fol. 256. C.* It is written oter le main, anno 25. Hen. 8. ca. 22.

Ouster le mer (*ultra mare*) commeth of the French (*oultre. i. ultra*) and (*le mer. i. mare*) and it is a cause of excuse or Essoine, if a man appeare not in Court vpon Summons. See *Essoin*.

Ousfangthesf, alias vifangthesf, is thus defined by *Bracton li. 3. tra. 2. ca. 34.* *vifangthesf dicitur latro extraneus veniens aliunde de terra aliena, & qui captus fuit in terra ipsius, qui tales habet libertates*, but see *Britton* otherwise. fol. 91: b: It is compounded of three Saxon words (*out. i. extra*) (*fang. i. capio vel captus*) and (*Thef. i. fur*) It is vied in the common law, for a liberty or priue-



priviledge, whereby a Lord is inhabled to call any man dwelling within his owne see, and taken for felony in any other place, and to iudge him in his owne court. *Rastals expos. of words.*

*Owelyty of services*, is an equality when the tenent parauaile oweth as much to the mesn, as the mesn doth to the Lord paramount: *Fitzh. nat. br. fol. 136 A. B.*

*Outlawry (vitlagaria)* is the losse or deprivation of the benefit belonging to a subiect: that is, of the Kings protection and the Realme: *Bratton: li. 3. tract. 2. ca. 11. num. pri. & nu. 2. For: facit vitlagatus omnia que pacis sunt: Quia a tempore quo vitlagatus est, caput gerit lupinum, ita quod ab omnibus interfici possit, & impune: maximo si se defenderit, vel fugerit, ita quod difficilis sit eius captio. & nu. 4. Si autem non fugerit, nec se defenderit cum captus fuerit: extunc erit in manu domini Regis mors, & vita. & qui taliter captum interfecerit, respondet pro eo sicut pro alio, v.c.*

*Outparriers anno. 9. H. 7. ca. 8.* seemeth to be a kind of theeves in *Ridesdall*, that ride abroad at their best advantage, to fetch in such catell or other things, as they could light on without that liberty: some are of opinion that those which in the forena-

med statute are termed out-parriers, are at this day called outputters, and are such as set matches for the robbing of any man or house: as by discourting which way he rideth or goeth, or where the house is weakest & fittest to be entred. See *Intakers.*

*Ontryders*, seeme to be none other but bayliffe errants, employed by the Shyreuees or their termers, to ride to the fardest places of their counties or hundreds, with the more speede to summon to their county or hundred courts, such as they thought good to worke vpon. *anno 14. Ed. 3. stat. 1. ca. 9.*

*Oxgang of Land (Rotata terra)* Sixe oxgangs of land, seeme to be so much as sixe oxen will plough. *Crompton. iurisd. fol. 220.* but an oxegang seemeth properly to be spoken of such land as lyeth in gainour, *old nat. br. fol. 117. M. Skene de verbor. significat. verbo Bovata terra*, saith, that an oxen-gate of land should alway containe 13. acres, and that 4. oxen-gates extendeth to a pound land of old extent. See *Librata terra.*

*Oyer and Terminer*, (*audiendo & terminando*) in true French (*Ovir & terminer*) is, in the intendment of our lawe, a commission specially granted to certainemen, for the hearing and determining of one or more

causes. This was wont to be in vse vpon some sodaine outrage or insurrection in any place. *Cromptons Jurisd. fol. 131. & 132.* See *The Statute of Westm. 2. cap. 29 anno. 13. Ed. 1.* who might graunt this commission. And see *Fitzh. nat. br. fol. 100.* for the forme and occasion of the writ, as also to whom it is to bee graunted, and whom not. See *Broke, titulo, Oyer & determiner.*

*Oyer de Record*, (*Audire Recordum*) is a petition made in court, that the Iudges, for beter proofes sake, will be pleased to heare or looke vpon any Record.

## P

**P** *acking whites. anno. 1. R. 3. cap. 8.*

*Pain fort & dure* (*poena fortis & dura*) is in true French (*peine fort & dure*.) It signifieth in our common lawe, an especiall punishment for those, that being arraigned of felonie, refuse to put themselves vpon the ordinarie triall of God and the cuntry, and thereby are mute, or as mute in interpretation of law. This (as *Starnf. thinketh, pl. cor. lib. 2. cap. 60.*) is founded vpon the Statute of *Westm. prim. cap. 12. anno. 3. Ed. prim.* His reason is, because *Bracton*, who writ before that Parlament, maketh

no mention of it: and *Britton* writing after that time, toucheth it in his 4. chapter, *fol. 11. viz.* in words to this effect: If they will not acquite themselves, let them be put to their penance vntill such time as they do desire triall: and let the penance bee such: *viz.* Let them be bare legged, without girdle, and without hatte or cappe, in their coate onely, and lye in prison vpon the naked earth day and night. And let them eate no bread, but of barley and branne, nor drink any other then water, and that vpon that day when they eate not. And let them be chained. *Starnford* in his said 60. chapter of his second booke, expoundeth it more plainely and particularly in this sort. And note, that this strong and hard paine shall be such: *sc.* He shall be sent backe to the prison whence he came, and layed in some lowe darke house, where he shall lye naked vpon the earth without any litter, rushes, or other clothing, and without any raiment about him, but onely something to couer his priuie members. And he shall lye vpon his backe with his head couered and his feete. And one arme shall bee drawne to one quarter of the house with a cord, and the other arme to another quarter: and in the same maner let it be



done with his legges: and let there be layed vpon his body iron and stone, so much as he may beare or more: and the next day following, he shall haue three morsels of barley bread without drinke: and the second day, he shall haue drinke three times: and as much at each time, as he can drinke, of the water next vnto the prison doore, except it be running water, without any bread. And this shall be his diet vntill he dye.

*Palatine.* See *County Palatine.*  
See *Cassan. de consuetud. Burg.*  
pag. 14.

*Palingman*, *anno* 11. *Henr.* 7.  
*cap.* 22.

*Panell* (*panellum*) commeth of the French (*panne. i. pellis, or paneau*) a peece or pane, as wee call it in English. It signifieth in our common lawe, a shedule or rolle, containing the names of such Iurours, as the Shyreuee prouiderth to passe vpon any triall. *Register orig. fol.* 223. *a. Kittin, fol.* 266. See *Broke, hoc titulo.* And thereupon the empaneling of a Iury, is nothing but the entring of them into the Shyreuees rolle or booke.

*Pannage* (*pannagium*) is a tolle or contribution. *Fitz. nat. br. fol.* 227. *D.* See *Pawnage.*

*Paramounte*, *aliis peremounte*, commeth of these two French words (*par. i. per*) and (*Monter*

*i. ascendere*) It signifieth in our law, the highest Lord of the fee: for there may be a Tenent to a Lord, that houldeth ouer of another Lord. And the former of those is called Lord *Mesn*, the second Lord paramount. And a Lord paramount (as it seemeth by *Kitchin, fol.* 209) consisteth only in comparison: as one man may be great being compared with a lesser, and litle being compared with a greater: and as *Genus*, among the *Logicians*, may be in diuers respects both *genus*, and *species.* *Fitzh. nat. br. fol.* 135. *M.* So that no we seemeth simply to be Lord paramount but only the King, as *Genus summum* is simply *Genus*. For the King is patron paramount to all the benefices in England, Doctor and student: *ca.* 36. See *Parauaile, Maner. and Fee.*

*Parauaile*, *aliis Perauaile*, is compounded of two French words (*par. i. per*) and (*aualler. i. dimittere, demittere*) It signifieth in our common law, the lowest tenent, or him that is tenent to one, who houldeth his fee ouer of another, So is it vsed. *pl. cor. fol.* 197. and *Fitzh. nat. br. fol.* 135. *M.* See *Paramounte.* See *Mesn.*

*Parcell makers*, are two officers in the eschequer, that make the parcels of the escheators accounts, wherein they charge them

them with euery thing they haue leuyed for the kings vse, within the time of their office, & deliuer the same to one of the auditors of the court, to make an accompt for the escheatour thereof.

*Parceners.* See *Coparceners.*

*Parcinarie* (*participatio*) cometh of the French (*partir. i. diuiduum facere.* It signifieth in our common law, a houlding or occupying of land by more *pro indiviso*, or by ioynt tenents, otherwise called *Coparceners*, of the French (*parsonnier. i. partiarus, particeps.*) For if they refuse to diuide their common inheritance and chuse rather to hold it ioyntly, they are said to hold *in parcinarie*. *Litleton, fol. 56. & 57.* This by the *Feudists* and *Lombards* is termed (*adequatio, vel paragium.*)

And among the auncient Romanes *particulones*, *sic enim auctore Nonio, a veteribus cohæredes inter se dicebantur, quod partes invicem facerent. Spigelinus.*

*Pardon* (*Perdonatio*) is a French word, signifying as much as *pax, venia, gratia.* It is vsed most notoriously in our common lawe, for the remitting or forgiuing of a felonious or other offence committed against the king. This pardon is two-fold: one *ex gratia Regis*, the other, *per cours del ley*, by course of law. *Stamf. pl. cor. fol. 47.* *Pardon ex gratia Regis*, is that, which the

king, in some speciall regard of the person or other circumstance, sheweth or affoordeth vpon his absolute prerogatiue or power. Pardon by course of lawe, is that, which the lawe in equitie affoordeth, for a light offence, as homicide casuall, when one killeth a man hauing no such meaning. *West. parte 2. symbol. titulo, Inditements. sect. 46.* Of this see the new booke of Entries, *verbo, Pardon.*

*Pardoners*, anno 22. H. 8. c. 12. were certaine fellowes that carried about the Popes Indulgences, and sold them to such as would buy them, against whom *Luther*, by *Sleydans* report, incensed the people of Germany in his time, exhorting them, *ne merces tam viles tanti emerent.*

*Parke* (*parcus*) cometh of the French (*parquer. i. vallo, vel fossa circumdare.*) It signifieth with vs, a peece of grounde inclosed and stored with wild beastes of chase. Which a man may haue by prescription or the kings graunt. *Cromptons Iurisd. fol. 148. M. Mamwood parte pri. of his Forest lawes. pag. 148.* defineth it thus: A parke is a place of priuiledge for wilde beastes of venerie, and also for other wild beastes, that are beastes of the Forest, and of the chase, *tam syluestres, quam campestres.* And all those wild beastes are to



haue a firme peace and protectiō there. So that no man may hurt or chase them within the park, without licence of the owner of the same. Who also *fol. 149.* saith thus: *A parke is of another nature, then either a chase, or a warren is. For a parke must bee inclosed, and may not lye open: for if it doe, that is a good cause of seisure of the same into the hands of the king, as a thing forfeited: as a free chase is, if it be enclosed. And moreouer, the owner cannot haue action against such as hunt in his park, if it lye open. See Forest. See Chase. See Warren.* This word *Parke*, *Baldwinus* deriueth a *paradiso*, *eumq;* *locum esse dicit, in quo varia animalia ad usum voluptatis, aut venationis includuntur & possidentur, adempta naturali libertate. Ad tit. de rerum diuis. in Institutionib.*

*Parcofractio*, is a writ which lyeth against him, that violently breaketh a pound, and taketh out beaſts thence, which, for some trespass done vpon another mans ground, are lawfully impounded. *Register originall fol. 166. Fitzh. nat. br. fol. 100.*

*Parish* (*parochia*) comineth of the greeke (*παροικία*. i. *Accollarum conuentus, accolatus, sacra vicinia*) it is vsed in the Cannon law, some time for a Bishoprick. But in our common law, it signi-

fieth the particular charge of a secular priest. For euery church is either Cathedrall, Couentual, or Parochiall. Cathedrallis that, where there is a Bishop seated, so called a *Cathedra*: Conuentual consisteth of Regular clerks, professing some order of religion, or of Deane and chapter, or other colledge of spirituall men. Parochiall is that, which is instituted for the saying of diuine seruice, and ministring the holy Sacraments to the people dwelling within a certaine compass of ground neare vnto it. Our Realme was first diuided into parishes by *Honorius Archb:* of *Canterbury*, in the yeare of our Lord. 636. *Camden Britan. pag. 104.* Of these parish churches I finde there were in England in the daies of *H. 8.* the number of 45000. *Hotoman* in his disputations *de feudis. ca. 2.* maketh mention of this word (*parochia*) out of *Pomponius Latus* in these words. *Nam sic quoq;* *Pomponius Latus veterem consuetudinem fuisse scribit, eamq;* *ab Imperatore Constantino repetitam, ut Ducibus, praefectis, Tribunis qui pro augendo Imperio conseruauerant, darentur agri, villaq;* *ut necessaria suppetere, quoad viuerent, quas parochias vocabant.* And a litle after: *verum inter feuda & parochias hoc interest, quod hae plerumq; senibus, & veteranis, pleriq; emeritis militiae dabantur,*

dabantur, quicum de Rep. bene meriti essent, publico beneficio reliquum vite sustentabant: aut si quod bellum nasceretur, euocati non tam milites, quam magistri militum viderentur. Feudis vero plurimum Inuenibus robustis, & primo flore etatis, qui militia munus sustinere poterant: immo verò & ut posset & ut vellet, &c.

Parlament (parlamentum) is a French word signifying originally as much as (*Collocutio*) or (*colloquium*) but by use, it is also taken for those high courts of Justice throughout the kingdom of France, where mens causes and differences are publicly determined without farther appeale. Whereof there be seuen in number: as Paris, Tolouse, Grefnoble in Dauphene, Aix in Prouence, Bordeaux, Diion in Bourgogne, and Roan in Normandy. Vincentius Lupanus de Magistrat. Franc. lib. 2. cap. Parlamentum. num. 28. whereunto Gerard de Haillon addeth the eighth. viz. Rhemes in Brettagne.

In England we vse it for the assembly of the king and the three estates of the Realme, videlicet: the Lords Spirituall, the Lords Temporall, and commons, for the debating of maters touching the common wealth, and especially the making and correcting of lawes. which assembly or court is of all other the highest, and of grea-

test authoritie, as you may reade in Sir Thomas Smith. de Repub. Anglo lib. 2. cap. 1. & 2. Camd. Britan. pag. 112. and Cromptons Iurisd. fol. pri. & seqq. The institution of this court Polydor Virgil, lib. 11. of his Chronicles, referreth after a sort to Henry the first: yet confessing that it was vsed before, though verie seldome. I find in the former prologue of the Grande Custumarie of Normandie, that the Normans vsed the same meanes in making their lawes. And I haue seene a monument of Antiquite, shewing the maner of houlding this parliament in the time of King Edward the sonne of King Etheldred, which (as my note saith, was deliuered by the discreeter sorte of the Realme vnto William the Conquerour, at his commaundement, & allowed by him. This writing beginneth thus. Rex est caput, principium, & finis parlamenti, & ita non habet parem in suo gradu. Et sic ex Rege solo primus gradus est. Secundus gradus est ex Archiepiscopis, Episcopis, Abbatibus, Prioribus per Baroniam tenentibus. Tertius gradus est, de procuratoribus cleri. Quartus gradus est de Comitibus, Baronibus, & aliis Magnatibus. Quintus gradus est de militibus Comitatum. Sextus gradus est de civibus & Burghensibus. Et ita est parlamen-



*tum ex sex gradibus. sed sciendum,*  
*licet aliquis dictorum quinq; gradu-*  
*um post Regem absens fuerit, dum*  
*tamen omnes pramoniti fuerint per*  
*rationabiles summonitiones, parla-*  
*mentum nibilominus censetur esse*  
*plenum.* Touching the great au-  
 thoritie of this court, I finde in  
*Stowes Annalls, pag. 660. that*  
*Henry the sixth directing his*  
*priuie seale to Richard Earle*  
*of Warwicke, thereby to dis-*  
*charge him of the Captain-*  
*ship of Cales, the Earle refu-*  
*sed to obey the priuie seale,*  
 and continued forth the said  
 office, because he receiued it by  
 Parliament. But one example  
 cannot make good a doctrine.  
 And of these two one must  
 needes be true, that either the  
 king is about the Parliament,  
 that is, the positie lawes  
 of his kingdome, or els that  
 he is not an absolute king.  
*Aristotle lib. 3. Politico. cap. 16.*  
 And therefore though it be a  
 mercifull policie, and also a  
 politike mercie (not altera-  
 ble without great perill) to  
 make lawes by the consent  
 of the whole Realme, be-  
 cause so no one part shall  
 haue cause to complaine of a  
 partialitie: yet simply to binde  
 the prince to or by these lawes,  
 weare repugnant to the nature  
 and constitution of an absolute  
 monarchy. See *Bracton. lib. 5.*

*tract. 3. ca. 3. nu. 3. and Cassan de*  
*consuet. Burg: pag. 335. and Tira-*  
*quel. in his booke De Nobilitate,*  
*cap. 20. pag. 68. nu. 26. See the*  
*statute anno 31. H. 8. cap. 8. in*  
*proximo.* and many excellent  
 men more, that handle this  
 point. That learned *Hotoman*  
 in his *Francogallia*, doth vche-  
 mently oppugne this ground,  
 as some other that write in  
 corners: but he is so cleane o-  
 verborne by the pois of rea-  
 son, that not onely many  
 meaner men for learning  
 triumph ouer him in this case,  
 but himselte, as I haue credi-  
 bly hard, vpon the sight of  
 his fault, cried God and the  
 world mercie for his offence,  
 in writing that erroneous and  
 seditious booke. The Emperours  
 of Rome had their *semestria*  
*consilia*, & their *pratorium* or place  
 of counsell, builded by *Augu-*  
*stus* in his palace, and therev-  
 on called (*palatium*) afterward  
 termed (*consistorium*) where they,  
 as in their principall court, did  
 both determine the greatest  
 sort of their causes, and also  
 made their constitutions. And  
 heere had they assisting them  
 many of the wisest of their em-  
 pire; whome *Augustus* first  
 called (*consiliarios*.) *Alexander Se-*  
*verus* afterward (*scriniorum prin-*  
*cipes*) others after that (*palati-*  
*nos*) and then (*comites consistori-*  
*anos*)

anos) And these men in this respect, were indued with great honour, and enioyed many priuiledges. Yet were they but assistants to the Emperour to aduise him, not chalenging any power ouer him, or equal with him. More touching the course and order of this Parliament, see in *Cromptons Iurisdic. fol. pri. & seqq.* and *Voxell, alias Hooker*, in his booke purposely written of this mater. See *King*.

*Parole* (*Loquela*) is a French word, signifying as much as (*Dictio, allocutio, sermo, vox*) It is vsed in *Kitchin, fol. 193.* for a plee in court. It is also sometime ioyned with lease, as *Lease parol*, that is *Lease per parole*. a lease by word of mouth.

*Parson* (*Persona*) cometh of the French (*Personne*). It peculiarly signifieth with vs, the Rector of a church: the reason whereof seemeth to be, because he for his time representeth the church, and susteineth the person thereof, as well in siewing, as being siewed in any action touching the same. See *Fleta. lib. 6. ca. 18.* *Parson impersonnee* (*persona impersonata*) is he that is in possession of a church, whether appropriated or not appropriated. for in the new booke of *Entries, verbo Ayde in Annuit*, you

haue these words. *Et pradietus Adicit, quod ipse est persona pradieta ecclesie de S. impersonata in eadem ad presentationem E. patronise, &c.* So I haue reason to thinke, that *persona* is the patro or he that hath right to giue the benefice, by reason that before the *Literan counsell* he had right to the tithes, in respect of his liberalitie vsed in the erection or endowment of the church, *quasi sustineret personam ecclesie*. and he *persona impersonata* to whome the benefice is giuen in the patrons right. For I reade in the *Register Indicial personam impersonatam*, for the Rector of a benefice presentative and not appropriated, *fol. 34.b.* and see *Dyer. fol. 40. nu. 72.* where he saith that a Deane and chapter be persons impersonces of a benefice appropriated vnto them. who also *fol. 221. num. 19.* plainly sheweth that *persona impersonata* is he that is inducted and in possession of a benefice. So that *persona* seemeth to be termed *impersonata*, onely in respect of the possession that he hath of the benefice or Rectorie, be it appropriated or otherwise, by the act of another. And yet I haue talked with men of good opinion in the common lawe, that hold onely the proprietarie of a be-



a benefice to be the person personee. But if that weare true, he should rather be called person *parsonnier*. i. *partiarus vel particeps fructuum*, because the Vicare hath some parte toward his paines in serving the cure. For (*parsonnier*) in the french tongue, is (*partiarus*) or (*particeps*)

*Partes finis nihil habuerunt, &c.* is an exception taken against a fine levied. *Cookes reports lib. 3. the case of Fines. fol. 88. a. b.*

*Parters of gold and silver.* See *Finours*.

*Partitione facienda*, is a writ that lieth for those, which should lands or tenements *Pro Indiviso*, and would sever to every one his part, against him or them that refuse to ioyne in partition as Coparceners and Tenents in Gavel kind, *ould: nat. br. fol. 142. Fitzh. nat. br. fol. 61. Register orig. fol. 76. 316. and Register Iudiciell, fol. 80. and the new booke of Entrise. verbo Partition.*

*Partlet*, seemeth to be some part of a mans attire, as namely some loose collar of a dublet, to be set on or taken of by it selfe, without the bodies, as mens bands or womens neckchiefs be, which are in some places, or at least haue beene within memory, called partlets. This word is reade in the sta-

ture, *anno 24. H. 8. ca. 13.* and seemeth to be a diminutive of the word (*part.*)

*Paruo nocumento*, is a writ. See *Nufance*.

*Passage* (*Passagium*) is a French word, signifying *transitum, transi-tionem, meatum*. It signifieth in our common lawe, the hire that a man payeth for being transported ouer sea, *anno 4. Ed. 3. cap. 7.* or ouer any riuer. *Westm. 2. cap. 25. anno 13. Ed. pri.*

*Passagio*, is a writ to the keepers of ports, to let a man passe ouer, that hath license of the king. *Register original. fol. 193. b. 194. a.*

*Passesport*, is compounded of two French words (*Passer. i. per-ambulare, transire*) and (*port. i. portus*) It signifieth with vs, a license made by any that hath authoritie, for the safe passage of any man from one place to another. *anno 2. Ed. 6. ca. 2.*

*Pasuage, pasuagium.* See *Par-nage*.

*Patent* (*litere patentes*) is different from a writ, *Cromptons Iurisd. fol. 126.* The Coroner is made by writ and not by patent. See *Leters patents*. See also *Litere patentes* in the table of the Register, where you shall finde the forme of diuers patents.

*Patron* (*Patronus*) is vsed in the

the Ciuile lawe , for him that hath manumitted a seruant , and thereby is both iustly accompted his great benefactor, and challengeth certaine reverence and dutie of him during his life: see the title *De iure patronatus* in the Digest: with the Feudists it is vsed *pro auctore feudi*. *Hosom. verbo Patronus*, in his commentarie *de verbis feudal*. In the canon lawe, as also in the feuds, and our common lawe , it signifieth him that hath the gift of a benefice. And the reason is , because the gift of churches and benefices originally belonged vnto such good men , as either builded them , or els indowed them with some great part of the reuenew belonging vnto them. *De iure patronatus* in the *Decretals*. Such might well be called patrons , as builded the Church , or enriched it : but these that now haue the gift of a benefice , are more commonly patronized by the Church, though against her will, alway selling their presentations as deerely as they can : and therefore may be called *Patroni a patrocinando*, as *Mons a mouendo*. *Patronum faciunt dos, edificatio, fundus*, saith the old verse, Of lay patrons one writeth thus. *Quod autem a supremis pontificibus prodium est*, (ca. cum dilectus, extra

*de iure patronatus*) laicos ius habere presentandi clericos *Ordinarius: hoc singulari favore sustinetur, ut allegetur laici, inuitantur, & inducantur ad constructionem ecclesiarum* (c. quoniam, eodem) *Nec omni ex parte ius patronatus spirituale censeri debet, sed temporale potius spirituali annexum.* (glos. in c. pia mentis, 16. qu. 7.) These be *Corasius* words in his paraphrase *ad sacerdotiorum materium*, parte pri. cap. 2. and parte. 4. cap. 6. in principio, he thus writeth of the same mater. *Patroni in iure Pontificio dicuntur qui alicuius ecclesie extruenda, aut alterius cuiuscunq; foundationis ecclesiastica auctores fuerunt, ideoq; presentandi & offerendi clericum ius habent. quem ecclesia vacans preesse, & in ea collatis redditibus frui velint. Acquirunt autem hoc ius, qui de Episcopi consensu vel fundant ecclesiam, hoc est, locum in quo templum extruitur, assignant, vel ecclesiam adificant, vel etiam constructas ecclesias ante consecrationem dotant. ut non valde sit obscurum, ius patronatus quo de agimus, finire, ius esse presentandi clericum ad ecclesiam vacantem ex gratia ei concessum, qui consentiente Episcopo, vel construxit, vel dotauit ecclesiam.*

*Pannage* (*Pannagium*, alias *pasnagium*) or (*pennagium*) as it is latined (*in pupilla oculi*) may be probably thought to come of the French (*panez*) or (*panets*) which



is a roote something like a parsnep, but somewhat lesse and ranker in taste, which hogs in Fraunce feede vpon, though it be eaten by men also; and the French may seeme to come of the latine (*panicum*) .i. that which men vse in the steede of bread (*Isidorus*) or (*panicum*) of the French. It signifieth in our common law, the mony taken by the *Agistors* for the feede of hogs with the mast of the kings forest: *Crompton. Iurisd. fol. 165. Westm. 2. cap. 25. anno 13. Ed. pri.* with whom *M. Manwood parte pri:* of his forest lawes agreeeth in these words: *Agistment* is properly the common of herbage of any kinde of ground, or land, or woods, or the money due for the same: and *pannage* is most properly the mast of the woods, or lands, or hedgerowes, or the money due to the owner of the same for it. But this learned man in his second part. *cap. 12.* where he writeth at large of this, driueth the word from the greeke *παράγους* at the which (I thinke) he smiled himselfe when he set it downe. *Lindwood* defineth it thus: *Pannagium est pastus pecorum in nemoribus & in syluis, utpote de glandibus & aliis fructibus arborum syluestrium, quarum fructus aliter non solent colligi. titulo de decimis. ca. sancta. verb: Pannagium. M. Skene*

*de verborum signif.* calleth it *pannagium*, and defineth it to be the duty giuen to the king, for the pasturage of swine in his forest. The French word for the same thing is (*panage*) or (*glandee*) .i. *glandatio, vel glandium collectio, & pastio suum ex glandibus.* And we surely take it from the French, whence they had it, or what etimologic they make of it, let themelues looke.

*Peace (pax)* in the generall signification is opposite to warre or strife. But particularly it signifieth with vs, a quiet and harmlesse cariage, or behauiour toward the king and his people. *Lamb. eirenarcha. li. 1. ca. 2. pag. 7.* And this is one way provided for all men by oath, as you may read in *Frankpledge*, but more especially in case, where one particular man or some few goe in daunger of harme from some other. For vpon his oath made thereof before a Iustice of peace, he must be secured by good bond. See *Lamb. eirenarcha lib. 2 c. 2 p. 77.* See also *Cromptons Iustice of peace. fol. 118. b. & c. vsq; f. 129.* This amōg the *Ciuias* is called *cantio de non offendēdo.* *Gail, de pace publ. lib. pri. c. 2. nu. 1.*

*Peace of God and the church, (pax Dei & ecclesie)* is aunciently vsed for that rest, which the kings subiects had from trouble and suite of law, betweene the

terms. See *Vacation*.

*Peace of the King.* anno. 6. R. 2. *stat. priv.* 13. is that peace and securitie both for life and goods, which the King promisseth to all his subiects or others taken to his protection. See *Suite of the kings peace*. This point of policie seemeth to haue beene borrowed by vs from the Feudists. for in the second booke of the feuds, there is a chapter viz. the 53. chapter intituled thus. *De pace tenenda inter subditos, & iuramento firmanda, & vindicanda, & de pœna iudicibus apposita, qui cum vindicare & iustitiam facere neglexerint*, the contents of which chapter is a Constitution of *Fredericke* the first, as *Hotoman* there proueth, expounding it very learnedly and like himselfe. Of this kings peace, *Roger Houeden* setteth downe diuers branches, *parte poster. suorum annalium. in Henr.* 2. fol. 344. a. b. and fol. 430. b. he mentioneth a forme of an oth which *Hubert* Archbishop of *Canterburie*, and chiefe Iustice of *Englad* in R. the first his daies, sent through the whole realme, to be taken by the kings subiects. See *Deciners*. See *Suerrie of peace*. There is also the peace of the Church, for which, see *Sanctuarie*. And the peace of the kings high way, which is the immunitie that the kings high

way hath, from all annoyance or molestation. See *Watling street*. The peace of the plowe, whereby the plow and plow catell are secured from distresses. For which, see *Fitz. nat. br. fol. 90. A. B.* So *Fayres* may be said to haue their peace, because noe man may in them be troubled for any debt elsewhere contracted. See *Fayre*.

*Pedage* (*pedagium*) signifieth money giuen for the passing by foote or horse through any countrey. *extra de Censibus, ca. Innovamus*. I reade not this word in any English writer, but onely the author of the booke called *pupilla oculi. parte 9. cap. 7. A. D.* I thinke we rather vse passage for it. *Pedagia dicuntur quæ dantur à transsanti-bus in locum constitutum à principe. Et capiens pedagium debet dare saluum conductum, & territorium eius tenere securum. Baldus in vñibus Feudorum. de p. iura. fir. §. Conventionales. Cassan. de consuetud. Burg. pag. 118.* hath these wordes, *Pedagium a pede dictum est, quod à transsanti-bus soluitur, &c.*

*Peere* (*pila*) seemeth properly to be a fortresse made against the force of the sea, for the better securitie of ships, that lye at harbour in any hauen. So is the peere of *Douer* described in *M. Camd. Brit. p. 259. in meo.*



Peeres (*pares*) commeth of the French (*per. i. par*) it signifieth in our common lawe, plurally those, that are empaneled in an Enquest, vpon any man for the conuicting and clearing him of any offence, for the which he is called in question. And the reason thereof is, because the courle and custome of our nation is, to trie euery man in this case by his equals. *West prim. cap. 6. anno 3. Ed. prim. So Kitchin vseth it. fol. 78. in these wordes: Mais si le amerciaement soit affirre per pares.* And this word in this signification, is not in vse with vs onely, but with other nations also. For *pares sunt conuassalli, quorum sententiâ uassalli propter feloniam est condemnatus. Barlaams de Regno, lib. 4. cap. 2. Et pares sunt qui ab eodem domino feudum tenent, lib. prim. Feudor. cap. 26.* But this word is most notoriously vsed for those that be of the Nobilitie of the Realme, and Lords of the Parliament, and so is it vsed in *Stawns. pl. of the Crowne, lib. 3. cap. Triall per les Peeres*, being the first. The reason whereof is, because though there be a distinction of degrees in our Nobilitie, yet in all publike actions they are equall: as in their voices in Parliament, and in passing vpon the triall of any Noble man, &c. This appellation seemeth to be borrowed from *Fraunce*,

and from those twelue Peeres, that *Charles the Great*, (or *Lewis the younger*, in some mens opinion) instituted in that kingdom, which be next vnto the King, and are of like dignitie among themselues, touching their power in publike affaires. Of whome you may reade *Vincen-tius Lupanus de magistrat. Frauncie lib. 1. cap. Pares Frauncie*. So that we though we haue borrowed the appellation, and applied it with some reason to all that are Lords of the Parliament, yet haue wee no sett number of them, because the number of our Nobles, may be more or lesse, as it pleaseth the King.

*Pelota*, is a word vsed in the booke called (*pupilla oculi*) *partic. 5. cap. 22.* signifying the ball of the foot, of the French (*pelote*). *i. pile.*

*Pain fort & dure*. See *Pain fort & dure*.

*Pelt wooll*, is the woll pulled off the skinne or pelt of dead sheepe, anno 8. *H. 6. cap. 22.*

*Penon*, anno 11. *R. 2. cap. prim.* is a Standard, Banner, or Ensigne, caried in warre. It is borrowed from *Fraunce*: for *pennon* in the French language signifieth the same thing. See *Baneres*: yea reade this word, anno 11. *R. 2. cap. 1.*

*Penne*:

*Penne*: See *Baye*.

*Peper*, (*piper*) is a spice known in a manner to euery childe, beeing the fruite of a plant, that is betweene a tree and an herbe: of whose diuersities and nature, you may reade *Gerards herball, lib. 3. cap. 146*. This is set among merchandize that are to be garbled. *anno, 1. Iacob. cap. 19*.

*Peper loose, anno, 32. H. 8 cap. 14*.

*Per, cui, & post, See Entrie*.

*Perambulatione facienda*, is a writ, that is shewed out by two or more Lords of maners, lying neere one another, and consenting to haue their bounds severally knowne. It is directed to the Shyreue, commanding him to make perambulation, and to set downe their certaine limits betweene them. Of this reade more at large in *Fitz. nat. br. fol. 133*. See *Rationabilibus diuiss*. See the *Regist. orig. fol. 157*. and the new booke of Entries, *verbo, Perambulatione facienda*.

*Perche* (*peruca*) is a French word, signifying a long pole. It is vsed with vs for a Rodde or Pole of 16. foote and a halfe in length. Whereof 40. in length and foure in bredth make an acre of ground. *Cromptons Iurisd. fol. 222*. Yet by the custome of the countrie it may be longer, as he there saith. For in the Forest of

*Sheerewood* it is 25. foot, *fol. 224. M. Skene de verbor. signif. verbo, Particula terra*, saith, that *particula terra* is a Rood of land: where he hath also these wordes in effect: Three beere cornes without tayles set together in length make an inch: of the which cornes one should be taken of the midde ridge, one of the side of the ridge, another of the furrow. Twelue inches make a foot of measure: three foote and an inch make an elne; sixe elnes long make one fall, which is the common lineall measure, and sixe elnes long, and sixe broad, make a square and superficiall fall of measured land, And it is to be vnderstood, that one rod, one raip, one lineall fall of measure, are all one, for each one of them containeth sixe elnes in length. Howbeit, a rod is a staffe or pole of wood, a raip is made of tow or hempe. And so much land as falleth vnder the rod or raip at once, is called a fal of measure, or a lineal fall: because it is the measure of the line or length onely. Like as the superficiall fall is the measure both of length and bredth. *Item*, tenne fals in length and foure in bredth make a Rood; foure Roodes make an acre, &c. This is the measure of Scotland, whereof you may reade more in the same place.



*Perdonatio vilagaria*, in the Register iudiciall, fol. 28. is the forme of pardon for him, that for not coming to the kings court is outlawed, and afterward of his owne accord yeldeth himselfe to prison.

*Peremptorie* (*peremptorius*) cometh of the verb (*perimere*) to cut of, and ioyned with a substantiue (as action or exception) signifieth a finall and determinate act without hope of renewing. So Fitzb. calleth a peremptory action, *nat. br. fol. 35. P. fol. 38. M. fol. 104. O. Q. R. fol. 108. D. G. and non-suite peremptorie. idem, eodem, fol. 5. N. F. fol. 11. A.* peremptory exception. *Bracton li. 4. ca. 20. Smith de rep. Anglorum, li. 2. ca. 13.* calleth that a peremptory exception, which can make the state and issue in a cause.

*Perinde valere*, is a dispensation graunted to a clerk, that being defectiue in his capacity to a benefice or other ecclesiasticall function, is *de facto* admitted vnto it. And it hath the appellation of the words which make the faculty as effectuell to the party dispensed with, as if he had bene actually capable of the thing, for which he is dispensed with, at the time of his admissiō.

*Perkins*, was a learned Lawyer, fellow and bencher of the inner Temple, that liued in the daies

of Edward the 6. and Queene Mary. He writ a booke vpon diuers points of the common law of very great commendation.

*Permutatione Archidiaconatus & ecclesia eidem annexa, cum ecclesia & prabenda*, is a writ to an Ordinary commaunding him to admit a clerk to a benefice, vpon exchange made with another: Register orig. fol. 307. a.

*Pernour of profits*, cometh of the French verb (*prendre* .i. accipere) and signifieth him that taketh: as *pernour of profits*, anno 1. H. 7. ca. pri. *Pernour de profits*, and *cesti que use* is all one, Coke li. i. casu Chudley. fol. 123. a. See *Pernour*, anno 21. R. 2. ca. 15.

*Per que seruitia*, is a writ iudiciall sluying from the note of a fine, and lyeth for the cognizee of a maner, seignory, cheife rent, or other seruices, to compell him that is tenent of the land at the time of the note of the fine leuied, to atturue vnto him. West parte 2. Symbol. titulo Fines. sect. 126. To the same effect Ipeakerth the old *nat. br. fol. 155.* See also the new booke of Entries. verbo *Per que seruitia*.

*Perquisite* (*perquisitum*) signifieth, in *Bracton*, any thing purchased, as *perquisitum facere*. lib. 2. cap. 30. nu. 3. & lib. 4. ca. 22. *Perquisites of court*, be those profits that grow vnto the Lord of a maner, by vertue of his Court

Court Baron, ouer and aboute the certaine and yearely profits of his land, as escheats, mariages, goods purchased by villeines, fines of copie houlds, and such like. New terms of the law.

*Person.* See *Parson*.

*Personable*, signifieth as much as inhab'ed to hould or maine- taine plee in a court. for example: The demaundant was iudged personable to maintaine this action. *old. nat. br. fol. 142.* and in *Kitchin fol. 214.* The tenent pleaded that the wife was an alien borne in *Portingall* without the iugeance of the King, and Iudgement was asked whether she would be answered. The plain- tife saith: shee was made perso- nable by Parliament, that is, as the Ciuilians would speake it, *habere personam standi in iudi- cio.* Personable is also as much, as to be of capacitie to take any thing graunted or giuen. *Plow- den, casu Colthirst. fol. 27. b.*

*Personall* (*Personalis*) hath in our common lawe, one strange signification, being ioyned with the substantiue things, goods, or Chatels: as things personall, goods personall, Chatels perso- nall, for thus it signifieth any corporeall, and moueable thing belonging to any man, be it quicke, or dead. So is it vsed in *West.* parte 2. *symbol. titulo Indite- ments, fol. 58.* in these words. Theft is an vnlawfull felonious

taking away of another mans moueable personall goods. and againe, *fol. 61.* *Larceny* is a felo- nious taking away of another mans moueable personal goods; & *Kitchin f. 139.* In these words: Where personall things shalbe giuen to a corporation: as a horse, a cowe, an oxe, sheepe, hogs, or other goods, &c. and *Stauinford pl cor. fo. 25.* *Contrecta- tio rei alienae*, is to be vnderstood of things personall: for in things reall it is not felony, as the cut- ting of a tree is not felony. The reason of this application, see in *Chatell.*

*Personalty* (*Personalitas*) is an abstract of personall. The acti- on is in the personalty. *old. nat. br. fol. 92.* that is to say, brought a- gainst the right person, or the person against whome in lawe, it lieth. I find these contrary words. (*Personalitas & Impersona- litas*) in the author of the booke called *vocabularius vtriusq; iuris*: as for example, *Personalitas signifi- catur per has dictiones: tu, mihi, ego, tibi, cum alio significato quod pro- babiliter concluditur. & si nullo modo concludatur, tunc est Impersonali- tas, quia actum vitiat, prout ratio dicitur. verbi gratia. Ego stipulor: constituis te mihi soluturum debi- tum a Titio mihi debitum: Tu re- spondes, Satisfiet. Hac Impersonali- tas non contrahit obligationem.*

*Persons ne Prabendaries ne se-*



ront charges as *quinsimes*, &c. is a writ that lyeth for prebendaries or other spirituall persons, being distreined by the shyreue, or collectours of fifteenths, for the fiftenth of their goods, or to be contributory to taxes. *Fitzh. nat. br. fol. 176.*

*Pesterable wares*, seeme to be such wares, as pester and take vp much roome in a shippe, *anno 32. H. 8. cap. 14.*

*Peter pence* (*Denarii Sancti Petri*) otherwise called in the Saxon tongue *Romefeoh*. i. the fee of Rome, or due to Rome, and also *Romefcot*, and *Rome penning*, was a tribute giuen by *Inas* King of the west Saxons being in pilgrimage at Rome, in the yeare of our Lord. 720. which was a peny for euery house. *Lamberds* explication of Saxon words. *verbo Numus*. whome see also *fol. 128.* in *Saint Edwards lawes. nu. 10.* where it is thus written. *Omnes qui habent 30. denariatus vine pecunie in domo sua de suo proprio, Anglorum lege dabis denariū Sancti Petri, & lege Danorum, dimidiam merkam: Iste verò denarius debet summoniri in solennitate Apostolorum Petri & Pauli, & colligi ad festiuitatem, que dicitur ad vincula: ita ut ultra illum diem non detineatur. Si quispiam detinuerit, ad Iusticiam Regis clamor deferatur, quoniam denarius hic Regis eleemmosina est,*

*Iusticia verò faciat denarium redere, & forisfacturam Episcopi & Regis. Quod si quis domos plures habuerit, de illa, ubi residens fuerit in festo Apostolorum Petri & Pauli denarium reddat.* See also King *Edgars lawes. fol. 78. cap. 4.* which containeth a sharpe constitution touching this matter, *Stowe in his Annals, pag. 67.* saith, that he that had 20. peniworth of goods of one maner catell in his house, of his owne proper, was to giue a penie at *Laminas* yearly. See *Romefcot*, *Petit Cape*. See *Cape*.

*Petit Larceny* (*paruum latrocinium*) See *Larcenye*.

*Petit treason* (*parua traditio*) in true French is (*petit trahizon. i. proditio minor*) treason in a lesser or lower kinde. For whereas treason in the highest kinde, is an offence done against the securitie of the common wealth, *West parte 2. symb. titulo Indisements, sect. 63.* *petit treason* is of this nature, though not so expressly as the other. Examples of *petit treason* you shall find to be these: if a seruant kill his master, a wife her husband, a secular or religious man his prelate, *anno 25. Edward 3. cap. 2.* Whereof see more in *Stawns. pl. cor. lib. 1. cap. 2.* See also *Cromptons Iustice of peace. fol. 2.* where he addeth diuers other examples to those of *Stawnsford*. For the pu-

nishment of petit treason, see the statute, *anne 22. H. 8. cap. 14.* and *Crompton ubi supra.*

*Petition* (*Petitio*) hath a general signification for all intreaties made by an inferiour to a superiour, and especially to one having iurisdiction: But most especially it is vsed for that remedie, which the subiect hath to helpe a wrong done, or pretended to be done by the King. For the King hath it by prerogative, that he may not be siewed vpon a writ. *Stawnsf. prar. cap. 15.* whome also read *cap. 22.* And a petition in this case is either generall, or speciall. It is called generall of the generall conclusion set downe in the same. *viz. que le Roy lui face droit & raison.* that the King doe him right and reason: wherevpon followeth a generall indorsement vpon the same. *soit droit fait aux partis.* let right be done to the partise. *Petition* speciall is where the conclusion is speciall for this or that: and the Indorsement to that is likewise speciall. See the rest *cap. 22.*

*Petra lana*, a stone of wooll  
See *Stone.*

*Philiser*, See *Filazer.*

*Picage* (*Picagium*) is money paid in faires for breaking of the ground to set vp bootches or standings.

*Picle*, aliàs *pitte*, seemeth to come from the Italian (*piccolo vel picciolo. i. parvus, minutus*) and signifieth with vs a little small close or inclosure.

*Pienour*, commeth of the French (*Pionnier. i. fossor*) and signifieth such labourers, as are taken vp for the Kings host to cast trenches, or vndermine forts *anno 2. & 3. Ed. 6. cap. 20.*

*Piepowders court* (*Curia pedis pulverizati*) cometh of two French words (*ped. i. pes*) and *pouldreux. i. pulverulentus*) It signifieth a court held in faires for the redres of all disorders committed within them: which because it is summarie, *de plano*, & *sine figura iudicii*, it hath the name of dustie feete, which we comonly get by sitting neere the ground: of this see *Cromptons Iurisd. fol. 221.* Reade *M. Skene. de ver. signif. verbo Pedepulverosus*: which word he reporteth to signifie a vagabond, especially a merchant, which hath no place of dwelling, where the dust may be wiped of his feet or shooes, & therefore must haue iustices summarily ministred vnto him. *viz. within three flowings and three ebbings of the sea.* *Bract.* calleth it *Iustitiam piepoudrous*, li. 5. tract. 1. ca. 6. nu. 6. Of this court reade the statute *anno 17. Ed. 4. cap. 2.*

*Pille of Fodday*, in the countie of Lancaster, *an. 2. H. 6. ca. 5.*



seemeth to be a creeke, and called pile by the ideom of the country for pile: for the which see *Pile*.

*Pillorie* (*Collisfrigium, Pillorium*) commeth of the French (*Pillorie*) which may seeme to smell of the greeke, and to proceede from (*πυλιν*) because one standing on the pillory putteth his head through a kind of doore. i. *ianua*: & *οραω*. i. *video*: it signifieth all one thing with it, sauing that the French is vsed for a tumbrell, as well as for that which we call the pillorie. There is a statute made of the pillorie. *anno 51. H. 3.* wherein you may see who were then subiect to this punishment. This was among the Saxons called *Healsfang* of (*Heals*) a necke and (*Fang*) to take, *Lamb. explanation of Saxon words. verbo. Multa.*

*Pipe* (*pipa*) seemeth to be a rolle in the exchequer, otherwise called the great rolle, *anno 37. Ed. 3. ca. 4.* See *Clerke of the pipe*. It is also a measure of wine or oile conteining halfe a tunne, that is fixe score & fixe gallons, *anno 1. R. 3. cap. 13.*

*Piscarie* (*piscaria*) commeth of the French (*pescharie*. i. *piscatio*) It signifieth in our common lawe, a libertie of fishing in an other mans waters.

*Pistle*. See *Pule*.

*Placard*, *anno 2. & 3. Ph. & Mar. cap. 7.* is a licence whereby a man is permitted to maintaine vnlawfull games.

*Plaint* (*Querela*) is a French word, signifying as much as *Questus, querimonia*. In our common law, it is vsed for the propounding of any action personall or real in writing. So it is vsed in *Brooke, titulo. Plaint in Affise*. And the party making this plaint, is called plaintife: *Kitchin, fol. 231.*

*Plea* (*placum*) commeth of the French (*pleid. i. lis. controversia*). It signifieth in our common lawe, that which either partie alleadgeth for himselfe in court. And this was wont to be done in French from the Conquest vntill *Edward the 3.* who ordeined them to be done in English. *a. 36. cap. 15.* Pleas are diuided into pleas of the Crowne, and common pleas. Pleas of the Crowne in Scotland be 4. roberie, rape, murder, and wilfull fire, *Skene de verb. sign. verb. Placitum*. with vs they be all suites in the Kings name against offences committed against his Crowne and dignitie. *Seamf. pl. cor. cap. 1.* or against his Crowne and peace. *Smith. de Repub. Angl. li. 2. cap. 9.* And those seeme to be treasons, felonies, misprisions of either, and mayhem. For those onely doth that reverend Iudge

Judge mention in that tractat. Common pleas be those that be held betweene common persons. Yet by the former definitions, these must comprise all other, though the king be a partie. Plea may farther be diuided into as many braunches as Action, which see. For they signifie all one. Then is there a Forrein plea, whereby mater is alleadged in any court that must be tried in another. As if one should lay Bastardy to another in a court Baron. *Kitchin. fo. 75.* The word (*placitum*) is vsed by the Commentours vpon the Feuds in the same signification that pleas be with vs. And (*placitare*) with them is (*litigare, & causus agere. Hotom. in verb. feudal. verb. Placitare.*

Pledge (*Plegius*) cometh of the French (*Pleige. i. fideiussor*) *Pleiger aucun. i. fideiubere pro aliquo.* In the same signification is *Plegius* vsed by *Glauile. libro decimo, capite quinto*, and *Plegiatio* for the act of suretiship in the interpreter of the Grand Customarie of Normandie, *capite 60. Plegii dicuntur persona que se obligant ad hoc, ad quod qui eos mittit tenebatur.* And in the same booke, *capit. 89. & 90. Plegatio* is vsed as *Glauile*

before doth vse it. *Salui plegii*, be vsed for *plegii*, *pupilli. oculi, parte quint. capit. 22. Charta de Foresta.* This word *plegius* is vsed also for *Frank pledge* sometime, as in the ende of *William Conquerours lawes* set out by *Master Lamberd* in his *Archaionom. fol. 125.* in these words. *Omnis homo qui voluerit se teneri pro libero, sit in plegio, ut plegius cum habeat ad Iusticiam, si quid offenderit, &c.* And these be called capitall pledges. *Kitchin. folio decimo.* See *Frank pledge.*

*Plena forisfactura*, and *plena vira*, see *Forfeiture.*

*Plegius acquiescendis*, is a writ that lieth for a suretie against him, for whome he is suretie, if he pay not the money at the day. *Fitzh. nat. br. fol. 137. Regist. original. 158.a.*

*Plenartie*, is an abstract of the adiectiue (*plenus*) and is vsed by our common Lawyers in mater of benefices. Wherein *plenartie* and *vacation* be meereley contrarie. *Stannford. prerogative. cap. octau. fol. 32. West. secundo, capit. quint. anno 13. Edward. pri.*

*Plevin (plenina)* cometh of the French (*plevine. sponsio*)



See *Replevin*.

*Plite of Lawne, &c. anno 3. Ed. 4. cap. 5.* seemeth to be a certaine measure, as a yard, or elle, &c.

*Plonkets, anno 1. R. 3. cap. 8.* is a kind of wollen cloth.

*Pluries*; is a writ that goeth out in the third place. For first goeth out the originall *Capias*: which, if it speed not, then goeth out the *Sicut alias*: and if that faile, then the *Pluries*. See *old nat. br. fol. 33.* In the writ *De excom. capiendo*, see in what diuersitie of cases this is vsed in the Table of the *original Regist.*

*Pole*. See *Perch*.

*Polein, anno 4. Ed. 4. cap. 7.* seemeth to be a sharpe or picket toppe set in the forepart of the shooe or boote. This fashion was first taken vp in *Richard* the seconds dayes, the pickes being made so long as they were tyed vp to the knees with siluer or golden chaines, and forbidden by *Edward* the fourth. *Sron pag. 4.*

*Policie of assurance*, is a course taken by those which do aduenture wares or merchandize by sea, whereby they, lothe to hazard their whole aduenture, do giue vnto some other a certaine rate or proportion, as tenne in the hundred, or such like, to secure the safe arriual of the ship, and so much wares at the place

agreed vpon. So that if the ship and wares do miscarie, the assurer maketh good to the venturer so much as he promisseth to secure, as 20. 30. 100. more or lesse: and if the ship do safely ariue, he gaineth that clearly which the venturer compoundeth to pay him. And for the more euen dealing betweene the venturer and the securer in this case, there is a certaine Clerk or officer ordained to set downe in writing the summe of their agreement, that they afterward differ not betweene themselves vpon the bargaine. This is in course Latine elsewhere called *affecuratio*. This terme you haue *anno 43. Eliz. cap. 11.*

*Pondage*. See *Poundage*.

*Pone*, is a writ, whereby a cause depending in the County court, is remoued to the common Banke. *old nat. br. fol. 2.* See in what diuersitie of cases it is vsed, in the table of the *Original Register*.

*Pone per vadium*, is a writ commaunding the Shyreue to take suretie of one for his appearance at a day assigned: of this see fise sorts in the table of the *Register Indic. verbo, Pone per vadium*.

*Ponendis in Assisis*, is a writ founded vpon the statute of *Westm. 2. cap. 38.* and vpon the statute *Articuli super chartas*, cap. 9. which statutes do shew, what per-

Persons Vicounts ought to impanell vpon Assises and Iuries, and what not: as also what number he should empanell vpon Iuries and Inquests, which see in the *Register orig. fol. 178. a.* and in *Fitz. nat. br. fol. 165.*

*Ponendo in ballum*, is a writ whereby to will a prisoner held in prison, to be committed to baile in cases baylable. *Register orig. fol. 133. b.*

*Ponendo sigillum ad exceptionem*, is a writ whereby the king willeth Iustices, according to the statute of *Westm. 2.* to put their seales to exceptions laid in against the plaintiffes declaration by the defendant.

*Pontage* (*pontagium*) is a contribution toward the maintenance or reedifying of bridges *Westm. 2. cap. 25. anno 13. Ed. pri.* It may be also tolle taken to this purpose of those that passe ouer bridges, *anno 39. Eliz. cap. 24. anno 1. H. 8. cap. 9.* and see the statute, *anno 22. H. 8. cap. 5.*

*Pontibus reparandis*, is a writ directed to the Shyreue, &c. willing him to charge one or more to repaire a bridge, to whom it belongeth. *Regist. orig. fol. 153. b.*

*Portgreue* (*portgreuus*) is compounded of two words (*port*) & (*greue*) or (*grauē*) i. *praefectus*. It signifieth with vs the chiefe magistrate in certaine coast townes,

and as *M. Camden* saith in his *Britan. pag. 325.* the chiefe magistrate of *London* was termed by this name: in steed of whom *Richard* the first ordained two Bayliffes: but presently after him, King *John* granted them a Maior for their yearly Magistrate.

*Porter of the doore of the Parliament house*, is a necessary officer belonging to that high court, & enioyeth the priuiledges accordingly. *Cromptons. Iurisd. fol. 11.*

*Porter in the circuit of Iustices*, is an officer that carieth a verge or white rodde before the Iustices in *Eyre*, so called, a *portando virgam*, *anno 13. Ed. 1. cap. 24.*

*Porter bearing verge* (*virgator*) before the Iustices of either bench, *anno 13. Ed. 1. cap. 41.* See *Vergers*.

*Portemote*, is a word compounded of (*port. i. portus*) and the Saxon (*Gemetan. i. conuenire*) or of the French (*mot. i. dictio, verbum.*) It signifieth a Court kept in haven townes, as *Swainmote* in the Forest. *Manwood. parte prim. of his Forest lawes, pa. 111.* It is sometime called the *Portmoote Court*, *anno 43. Eliz. cap. 15.*

*Portsale*, *anno 35. H. 8. cap. 7.* *id est*, sale of fish presently vpon returne in the haven.

*Possession* (*possessio*) is vsed two waies in our commonlawe. First for lands and inheritance: as, he is a man of large possessions. In



which signification it is also vsed among the Ciuilians *sc:* for the thing possessed, *l. possessionum. Cod. commun. vtriusq. Indic.* Next, for the actuall enioying of that, which either in truth or pretence is ours. And in this signification there is possession indeed, and possession in lawe: *pl. cor. fol. 198.* The example there is this: Before or vntill an office to be found, the king hath onely possession in law, and not in deed, speaking of the lands escheated by the attainder of the owner. See *prærog. fol. 54. & 55.* In this signification also there is an vnity of possessiō, which the Ciuilians call *Consolidationem*. Take an example out of *Kirchin, fol. 134.* if the Lord purchase the tenancie held by Heriot seruice, then the Heriot is extinct by vnity of possession: that is, because the seigneurie and the tenancie be now in one mans possession. Many diuisions of possession you may reade in *Bracton. lib. 2. cap. 17. per totum.*

*Post. See Per.*

*Post diem*, is a returne of a writ after the day assigned for the returne: for the which, the *Custos breuium* hath foure pence, whereas he hath nothing, if it be returned at the day: or it may be the fee taken for the same.

*Post fine*, is a duty belonging to the king for a fine formerly acknowledged before him in his court which is paid by the cognizee, after the fine is fully passed, and all things touching the same wholly accomplished. The rate thereof is so much and halfe so much, as was payed to the king for the fine, and is gathered by the Shyreue of the Countie where the land, &c. lyeth, whereof the fine was leuyed, to be answered by him into the Exchequer.

*Post terme*, is a returne of a writ, not onely after the day assigned for the returne thereof, but after the terme also, which may not be receiued by the *Custos breuium*, but by the consent of one of the Iudges: it may be also the fee which the *Custos breuium* taketh, for the returne thereof, which is twenty pence.

*Postea*, is a word vsed for a mater tried by *Nisi prius*, and returned into the court of common pleas for Iudgement, and there afterward recorded. See *Plowden, casu Saunders. fol. 211. a.* See an example of this in *Sir Edw. Cokes reports. volum. 6. Rowlands case. fol. 41. b. & 42. a.* See *Custos breuium*.

*Post disseisin* (*post disseisina*) is a writ giuen by the statute of *West. 2. cap. 26.* and lyeth for him that hauing

hauing recouered lands or tenements by (*precipe quod reddas*) vpon default, or reddition, is againe disseised by the former disseisour. *Fitz. nat. br. fol. 190.* see the writ that lyeth for this in the *Register originall*, fol. 208. a.

*Posteriority*, (*posterioritas*) is a word of comparison and relation in tenure, the correlatiue whereof is *prioritie*. For a man holding lands or tenements of two lords, holdeth of his auncienter Lord by *prioritie*, and of his later Lord by *posterioritie*. *Stawn. prerog. fol. 10. & 11.* when one tenant holdeth of two Lords, of the one by *prioritie*, of the other by *posterioritie*, &c. *old nat. br. fol. 94.*

*Pourchas* (*perquisitum*) cometh of the French (*pourchasser*, i. *solicitare, ambire*: ) it signifieth the buying of lands or tenements with money or other agreement, and not the obtaining of it by title or descent. *Coriunctum perquisitum*. loynt purchase. *Regist. originall. fol. 143. b.*

*Pour faire proclamer*, *que nul enieict fimes ou ordures en fosses ou riuers pres cities, &c.* is a writ directed to the Maior, Shyreene or Baylisfe of a citie or towne, comanding them to proclaime, that none cast filth into the ditche or places neare adioy-

ning: and if any be cast alreadie, to remoue it. This is founded vpon the statut, *anno 12. Ricb. 2. cap. 13. Fitzherb. nat. br. fol. 176.*

*Pourparty* (*propars, propartis, vel propartia*) is contrarie to (*proinduiso*) For to make *pourparty* is to diuide, and seuer the landes that fall to *Parceners*, which before partition they hold ioyntly, and *proinduiso*. *old. nat. br. fol. 11.*

*Pourpresture* (*pourprestura, vel porprestura, vel paraprestura*) seemeth to come from the French (*pourpris* i. *conseptum*.) It is thus defined by *Glanuile, lib. 9. cap. 11.* *Pourprestura est proprie, quando aliquid super Dominium Regem iniuste occupatur. Vt in Dominicis Regis, vel in viis publicis obstructis, vel in aquis publicis transuersis à recto cursu: vel quando aliquis in ciuitate super Regiam plateam aliquid edificando occupauerit: & generaliter, quoties aliquid fit ad nocumentum Regii tenementi, vel Regie vie, vel ciuitatis.* *Crompton.* in his *Iurisd. fol. 152.* defineth it thus: *Pourpresture* is properly when a man taketh vnto himself or incrotheth any thing that he ought nor, whether it be in any Iurisdiction, land or fraunchis: and generally, when any thing is done to the Nufance of the kings tenents. *Et idem, eodem, fol. 203.* saith to the same effect, but

more



more at large. See *Kitchin*, fol. 10. and *Mannwood*, parte prim. of his *Forest lawes*, pag. 169. & parte 2. cap. 10. per totum. See *Skene de verbor. signif. verb. Purpresture*. Where he maketh three sorts of this offence: one against the King, the second against the Lord of the fee: the third, against a neighbour by a neighbour lying neare him.

*Pour seisir terres la femme que ti-ent en Dower*, &c. is a writ whereby the King seiseth vpon the land, which the wife of his Tenant, that held *in capite*, disceased, hath for her Dowrie, if shee marry without his leaue: and is grounded vpon the statute of the Kings prerogatiue. cap. 3. see *Fitzh. fol. 174.*

*Poursuyuant*, commeth of the French (*poursuivre*. i. agere, agitare, persequi) It signifieth the Messenger of the king attending vpon him in warres, or at the counsell table, the Starre Chamber, Exchequer, or commission court, to be sent vpon any occasion, or message, as for the apprehension of a party accused, or suspected of any offence committed. Those that be vsed in marshall causes, be called *Poursuivants* at armes, anno 24. Hen. 8. cap. 13. whereof there be foure in number of especial names, which see in *Herald*. And *M. Stone* speaking of *Richard* the third

his end. pag. 784. hath these words: For his bodie was naked to the skinne, notso much as one cloute about him, and was trussed behinde a Pursuyuant at armes, like a hogge, or a calfe, &c. The rest are vsed vpon other messages in time of peace, and especially in maters touching iurisdiction. See *Herald*.

*Pourueyours*, (*provisor*) com-meth of the French (*pourvoir*. i. providere prospicere.) It signifieth an Officer of the King, Queene, or other great personage, that provideth corne and other victuall, for the house of him whose Officer he is. See *magna charta*. cap. 22. & 3. Ed. prim. cap. 7. & cap. 31. & anno 28. eiusdem. *Articuli super chartas*. 2. and many other statutes gathered by *Rastal* vnder this title.

*Powldanis*. anno 1. Iacob. ca. 24.

*Power of the countie*, (*posse com-tatus*) by *M. Lamberds* opinion in his *Eirenar. lib. 3. cap. 1. fol. 309.* containeth the ayde and attendance of all Knights, gentlemen, yeomen, labourers, ser-vuants, apprentices, and villaines: and likewise of Wardes, and of other young men about the age of fisteene yeeres, within the countie, because all of that age are bound to haue harnessse, by the statute of *Winchester*. But women, ecclesiasticall per-  
sons

sons, and such as be decrepit, or do labour of any continuall infirmitie, shall not be compelled to attend. For the statute 2. *H. 5. cap. 8.* (which also worketh vpon the same ground) saith, that persons sufficient to travell, shall be assistant in this seruice.

*Pounde* (*parcus*) seemeth to signifie generally any inclosure of strength to keepe in beasts: but especially, with vs, is signifieth a place of strength to restraine catell being distrained or put in for any trespass done by them, vntill they be repleuied or redeemed. And in this signification it is called a pound *ouert*, or open pound being builded vpon the wast of some Lord within his fee, and is called the Lords pownd. For he provideth it to his vse, and the vse of his tenants. See *Kitchin. fol. 144.* It is diuided into pound open, and pound close: pound open or ouert, is not onely the Lordes pownd, but a backside, court, yarde, pasture, or else what soeuer, whether the owner of any beasts impounded may come to giue them meate and drinke without offence, for their being there, or his comming thither: pound close is then the contrary *viz.* such a one as the owner cannot come vnto, to the purpose aforesaide without offence, as

some close house, or such like place.

*Powndage*, is a Subsidie granted to the King of all maner of merchandies of euery merchant denizen and alien, caried out of this realme, or brought into the same by way of Merchandize, to the valew of twelue pence in euery pound, anno 12. *Ed. 6. cap. 13. anno 31. Eliz. cap. 5. anno 1. Iacobi, cap. 33.*

*Pray age.* See *Age prier.*

*Pray in ayd.* See *Ayd.*

*Prebend* (*præbenda*) is the portion, which euery member, or Canon of a Cathedrall church receiueth in the right of his place, for his maintenance. And though vse haue wrought the latine word into the nature of a Substantiue: yet I thinke it originally to be an Adiectiue, or participle, and to haue bene ioyned with (*pars* or *portio*) as (*Canonica portio*) which is in a maner all one in signification. How be it (*Canonica portio*) is properly vsed for that share which euery Canon or Prebendary receiueth yearely out of the common stocke of the Church: and *præbenda* is a seuerall benefice rising from some temporall land, or church appropriated, toward the maintenance of a Clerke, or member of a Collegiat Church; and is commonly furnamed of the place, whence, the profit groweth. And Pre-



bends be either simple, or with dignity. Simple Prebends be those, that haue no more but the reuenew toward their maintenance: Prebends with dignity are such, as haue some Iurisdiction annexed vnto them according to the diuers orders in euery seuerall church. Of this see more in the title. *De prabendis, & dignitat:* in the *Decretalls. Aleiat* saith that (*prabenda*) in the plurall number and neuter gender was aunciently vsed: as now (*prabenda*) in the singuler number and feminine gender is vsed. *parerg. ca. 43.*

*Prabendary* (*prabendarius*) is he that hath a *prebend*: See *Prebend*.

*Precept* (*praeceptum*) is diuersly taken in the comon law: sometime for a commaundement in wrighting sent out by a Iustice of peace, or other for the bringing of a person one or more, or records before him: of this you haue examples of diuers in the table of the *Reg. Iudiciall*: And this vse seemeth to be borrowed from the customes of *Lombardy*, where *praeceptum* signifieth *scripturam, vel instrumentum. Hot. in verbis feudal. & libro. 3. Commensariorum in libros feudorum, in praefatione.* Sometime it is taken for the prouocation, whereby one man inciteth an other to commit a felony, as theft, or murder. *Stawnf. pl. cor. fol. 105. Bracton*

calleth it (*praeceptum*) or (*mandatum*) *lib. 3. tract. 2. ca. 19.* whence a man may obserue three diuersities of offending in murder: *Praeceptum, fortia, consilium: praeceptum*, being the instigation vsed before hand, *fortia*, the assistance in the fact, as help to binde the party murdered, or robbed: *consilium*, aduise either before or in the deede. The Ciuilians vse (*mandatum*) in this case, as appeareth by *Angelus in tracta: de maleficiis. vers. Sempronium Mandatorem.*

*Preceptories*, anno 32. H. 8. cap. 24. were benefices in a kinde, & termed preceptories, becaufe they were possessed by the more eminent sort of the Templers, whome the cheife master by his authoritie created and called (*praepiores Templi*) *Ioach. Stepha. de Iurisdic. li. 4. cap. 10. num. 27.* See *Comaundry*.

*Pracipe quod reddat*, is a writ of great diuersitie touching both the forme and vse, for beter declaration whereof see *Ingressu*, and *Entrie*. This forme is extended as well to a writ of right, as to other writs of entry, or possession. *old. nat. br. fol. 13. and Fitzh. nat. br. fol. 5.* And it is called sometime a writ of *Right close*, as a *pracipe in capite*, when it issueth out of the court of common pleas for a tenent holding of the King in cheife, as

of his Crowne , and not of the King, as of any honour, castell or maner. *Register orig. fol. 4. b. Fitzh. nat. br. fol. 5. F.* Sometime a writ of Right patent: as when it issueth out of any Lords court, for any of his tenents deforced, against the deforcer, and must be determined there. Of this reade more at large in *Fitzh. nat. br.* in the very first chapter or writ of all his booke.

*Pramunire*, is taken either for a writ, or for the offence whereupon the writ is graunted. The one may well enough be vnderstoode by the other. It is therefore to be noted, that the church of *Rome* vnder pretence of her supremacie and the dignitie of *Saint Peters chaire*, grew to such an incroching, that there could not be a benefice (were it Bishoprick, Abbathie, or other) of any worth here in England, the bestowing whereof could escape the Pope by one meanes or other. In so much, as for the most part, he graunted out Mandats of ecclesiasticall liuings, before they were voide to certaine persons by his bulls, pretending therein a great care to see the Church prouided of a Successor before it needed. Whence it grew that these kinde of Bulls were called (*Gratia expectativa*) or (*Prouisiones*) whereof you may reade a learned discourse in *Duarenus*

that worthie Ciuilian in his treatise: *De beneficiis lib. 3. c. 1.* and in his treatise *De immunitate ecclesie Gallicane*. These prouisions, were so rife with vs, that at the last, King *Edward the third*, that heroicall Prince, not digesting so intolerable an oppression, made a statute in the 25. yeare of his reigne, *statuto 5. cap. 22.* and another, *statuto 6. eiusdem anni. cap. pri.* and a third *anno 27.* against those that drew the Kings people out of the Realme, to answer of things belonging to the kings court; and another *anno 28. statu. 2. c. 1. 2. 3. & 4.* to the like effect: whereby he greatly restrained this libertie of the Pope. Yet such was the wantonnesse that grew out of his power, & the num patiēce of princes in those daies, that hee still aduētured the continuance of these prouisions: in so much as King *Richard the second* made likewise a statute against them in the 12. yeare of his reigne, *cap. 15.* and the 13. yeare *statut. 2. ca. 2.* making mention of the said first statute of *Edward the third*, ratifying the same, and appointing the punishment of those, that offeded against it, to be perpetuall banishment, forfeiture of their lands, tenements, goods, and catels, as by the same doth more at large appeare. And againe in the 16.



yeare of his reigne, *cap. 5.* to meete more fully with all the shifts inuented to defraude these former statutes, he expresfeth the offence more particularly, and setteth the same punishment to it, that hee ordeined in the last former statute. for there toward the ende he hath these words: If any purchase or pursiew, or do to be purchased, or pursiewed in the court of Rome, or els where, any such translations, processe, and sentences of excommunication, Bulls, Instruments, or any other things, &c. After him *K. H.* the fourth in like maner greued at this importuny by other abuses not fully mette with in the former statutes, in the second yeare of his reigne, *cap. 3. & 4.* addeth certaine new cases, and laieth vpon the offenders in them the same censure, whereunto for shortnes sake I referre you: admonishing likewise to adde the statute, *anno. 9. eiusdem. cap. pri. & anno 7. cap. 9. & 8. & anno 9. eiusdem. cap. 8. & anno 3. H. 5. cap. 4.* Out of which statutes haue our professors of the common lawe, wrought many daungers to the Iurisdiction ecclesiasticall, thretning the punishment contained in the statute *anno. 27. Ed. 3. & 38. eiusdem,* almost to euery thing that the court Christian dealeth in, pretending all things delt

with in those courts to be the disherison of the Crowne. from the which, and none other fountaine, all ecclesiasticall Iurisdiction is now deriued: whereas in truth *Sir Tho. Smith* saith verry rightly, and charitably, that the vniting of the supremacie ecclesiasticall, and temporall in the king, vtterly voideth the vse of all those statuts. *Nam cessante ratione, cessat lex.* And whatsoever is now wrought or threatened against the Iurisdiction ecclesiasticall, by colour of the same, is but in emulation of one court to anot her: and by consequent a derogation to that authoritie, from which all Iurisdiction is now deriued, and the maintenance whereof was by those Princes especially purposed. But of this reade *Sir Thomas Smith, lib. 3. de Rep. Angl. cap. 9.*

Some later statutes doe cast this punishment vpon other offenders: as namely the statute, *anno 1. El. cap. primo,* vpon him that denieth the Kings supremacie the second time, &c. and the statute *anno 13. El. ca. 2.* vpon him that affirmeth the authoritie of the Pope: or that refuseth to take the oathe of supremacie. and the statute, *anno 13. El. cap. 1.* such as be seditious talkers of the inheritance of the Crowne, or affirme the *Queenes Maiestie*

to be an heritique . And the word is applied most commonly to the punishment first ordeined by the statutes before mentioned, for such as transgressed them; but in later times imposed vpon other offences. for that, where it is saide that any man for an offence committed shall incurre a premunire, it is meant, that he shall incurre the same punishment, which is inflicted against those that transgresse the statute made, *anno 16.R.2.ca.5.* which is commonly called the statute of premunire, which kinde of reference is not vnusuall in our statutes. For example, I shew onely the statute, *anno 5. El. ca.5.* where it is inacted that if any man preach or teach by wrighting, that the comon Counsell of the Realme doe by that statute forbid flesh to be eaten, as of necessitie for the sauing of mans soule, that he shall for such preaching, &c. be punished as they be, which be spredders of false newes: hauing reference thereby to those statutes, which containe the punishment of such offenders.

Now touching the Etymologie of this word (*Premunire*) some thinke it proceedeth from the strength giuen to the Crown by the former statutes, against the vsurpation of forein and vn-

naturall power: which opinion may receiue some ground from the statute, *anno 25. Ed. 3. stat. 6. cap. pri.* But other thinke it to grow from the verb (*Premunere*) being barbarously turned into (*Premunire*) which corruption is taken from the rude Interpreters of the Ciuile, and Canon lawes, who indeede doe vse the effect (*Premunire*) many times for the efficient cause (*Premunere*) according to our prouerb: He that is well warned, is halfe armed. And of this I gather reason from the forme of the writ, which is thus conceiued in the *old. nat. br. fol. 143. Premunire facias prefatum propositum & I. R. procuratorem, &c. quod tunc sine coram nobis, &c.* for these words can be referred to none, but parties charged with the offence.

*Propositus ville*, is vsed sometime for the Constable of a town, or petit Constable. *Cromptons Jurisdic. fol. 205.* how be it the same author *fol. 194.* seemeth to apply it otherwise. for there *quatuor homines prepositi*, be those 4. men, that for euery towne must appeare before the Iustices of the Forest in their Circuit. It is vsed sometime for a Reeve. See *Reeve.*

*Prerogative of the King* (*prerogativa regis*) is that especial



power, preeminence, or privilege that the King hath in any kinde, ouer and aboue other persons, and aboue the ordinarie course of the common lawe, in the right of his crowne. And this word (*Prærogativa*) is vsed by the Ciuilians in the same sense. *l. Rescriptum. 6. §. 4. π. de hono. & muner.* But that privilege that the Roman Emperour had aboue common persons, they for the most part comprised (*sub iure fisci. π. de iure fisci, per totum tit. & Coli. 10. tit. 1.*) Among the Feudists this is termed (*ius regaliū, ius regaliū vel a nonnullis ius regaliū*) But as the Feudists, *sub iure regaliū*, soe our lawyers (*sub prærogatiua regis*) doe comprise also, all that absolute height of power that the Ciuilians call (*maiestatem, vel potestatem, vel ius imperii*) subiect only to god: which (*regalia*) the Feudists diuide into two sorts, *maiora* sc. & *minora regalia*, for to vse their owne words, *Quedam regalia, dignitatem, prærogatiuam, & imperii præminentiam spectant: quedam verò ad utilitatem, & commodum pecuniarium immediatè attinent: & hæc propriè fiscalia sunt, & ad ius fisci pertinent.* *Peregrini de iure fisci, li. pri. cap. 1. nu. 9.* See also *Arnoldus Clapmarus. de arcanis Imperii. lib. pri. cap. 11. & seqq.* who seemeth to make difference be-

twene *magistatem, & ius regaliū*. Others also make those (*maiora regalia*) that appertaine to the dignitie of the prince, and those *minora*, which enrich his cofers. *Regnerus Sixtinus, de iure regali. cap. 2.* By this it appeareth, that the statute of the Kings prerogative made, *an. 17. Ed. 2.* containeth not the summe of the Kings whole prerogative, but onely so much thereof, as concernes the profit of his cofers growing by vertue of his regall power and crowne. for it is more then manifest, that his prerogative reacheth much farder: yea even in the maters of his profit, which that statute especially consisteth of. For example, it is the kings prerogative to graunt protection vnto his debtours against other creditours, vntill himselfe be satisfied. *Enzb. nat. br. fol. 28. B.* to distreine for the whole rent vpon one tenent; that hath not the whole land. *Idem. fol. 235. A.* to require the auncesters debt of the heire, though not especially bound. *Brit. cap. 28. fo. 65. b.* to seise vpon money paid by his deptour into a court, for the satisfaction of an executor. *Plowden, fol. 322. a.* to permit his deptours to siew for their debts by a (*Quominus*) in the exchequer. *Perkins. Gramms. 5.* to be first paid by one that oweth money both to him

him and others. *Dyer. fol. 67. nu. 20.* to take the lands of accountants into his hands for his own satisfaction. *Plowd. casu Almes. fol. 321. & 322.* to take his action of account against executors, *eodem, fol. 320.* not to be tied to the demand of his rent. *Coke. li. 4. fo. 73. a.* Now for those regalities which are of the higher nature (all being within the compass of his prerogative, and justly to be comprised under that title) there is not one that belonged to the most absolute prince in the world, which doth not also belong to our king, except the custome of the nations so differ (as indeede they doe) that one thing be in the one accounted a regality, that in another is none. Onely by the custome of this kingdom, he maketh no lawes without the consent of the 3. estates though he may quash any lawe concluded of by them. And whether his power of making lawes be restrained (*de necessitate*) or of a godly and commendable policy, not to be altered without great perill, I leaue to the iudgement of wiser men. But I hold it incontrowlable, that the king of England is an absolute king. And all learned politicians do range the power of making lawes, *inter insignia summa & absoluta potestatis. Maiora autem*

*regalia sunt hac: clausula plenitudinis potestatis, & ex ea aliquid statuere, leges condere, ac eas omnibus & singulis dare, bellum indicere, belli indicenti licentiam alii dare, pronunciare ita ut a sententia appellari non possit, committere siue delegare alicui causam cum clausula appellatione remota, cognoscere de crimine lesa maiestatis, legitime per rescriptum eos qui extra legitimum matrimonium nati sunt, ad famam, honores, & natales in integrum restituere, veniam aetatis dare, creare Duces, Marchiones, Comites, regnum in feudum concedere. Huc referri potest ius erigendi scholam, quae hodie Vniuersitas vel Academia appellatur, etiam ius creandi doctores, gradu licentiae aliquem insigniendi, creandi magistratus, tabelliones, siue notarios, ius dandi insignia nobilitatis, siue nobiles creandi, ius cudenda monetae, noua vectigalia instituendi, vel instituta vetustigalia augendi; Sextum ubi supra.* So that those other which are mentioned in *libris feudorum*, and the interpreters of them, are (at the least for the most part) justly called *regalia minora*, as *armandia, via publica, flumina nauigantia, portus, ripalia, vectigalia, monetae, militum poenarumq; compendia, bona vacantia, bona quae indignis auferuntur, bona eorum qui incestum matrimonium contrahunt, bona damnatorum, & proscriptorum, angaria & parangaria, ex inordinarie*



*ad expeditionem imperatoris collationes, potestas creandorum magistratum ad iusticiam exequendam, argentariis, palatia in civitatibus constituta, piscationum redditus, salinarum redditus, bona committentium crimen lese maiestatis, thesaurus inuentus.* By setting downe these regalities of both sorts, as they are accounted in the Empire, and other forein kingdomes, they may be the more easily compared with our kings prerogatiues, and so the differences noted betweene vs and them. And whereas some things are before reckoned both (*inter regalia maiora, & minora*) the reader must vnderstand that this may be in diuers respects. For example, the power of raising a tribute, or of coyning money is *inter maiora*: but the profit that groweth to the Prince by the one or other, is (*inter minora*) Now may there also be noted out of books a great number of prerogatiues belonging to the king of this land, which doe not bring profit to his cofers immediately, and therefore may be accounted *inter regalia maiora*, or at the least, in a middle or mixt nature, or *inter maiora & minora*, because by a consequent they tend to the increase of the kings exchequer. Of these such as I haue obserued in reading, I will set downe as they come to my

hands, without farder curiosity in diuiding. It is the kings prerogatiue that he may not be siewed vpon an ordinary writ as tenant to lands, but by petition. *Plowd. casu Walsingham fo. 553.* to haue a necessary consent in the appropriation of all benefices. *Idem, casu Grendon. fol. 499.* to waieue and to demurre, and to pleade to the issue, or to waieue the issue, and to demurre vpon the plee of the aduers part, yet not to chaunge the issue another terme after he and the aduers part be once at issue. *Idem, casu Willion. fol. 23. 6. a. & casu Mmes fol. 322. a.* to be received in a suite before issue ioyned vpon an (*ayde prier*) *Idem, casu Duchery of Lancaster. fol. 221. b.* to be neuer in nonage, *eodem, fol. 218. b.* that a man indicted may not wage battell with him. *Idem casu nimes fol. 335. b.* that no man vpon any right may enter vpon him being in possession, but must be put to suite. *Dyer fol. 139. m. 33.* to seise the lands of his tenants that alienate without licence. *Plowd. casu. Mines. fol. 322. a.* that no subiect may wage his law against him. *Broke. chofein action. 9. Coke. lib. 4. fol. 93.* to present in the right of the youngest coparcener being his warden before the elder. *Plowd. casu. Mines. fol. 332. b. & fol. 333. a.* that a benefice by institution is

not full against him. *Coke. Dig-  
bies case. fol. 79. a.* not to finde  
pledges for the persecuting of a-  
ny action. For he cannot be a-  
merced. *Fitzh. nat. br. fo. 31. E. &  
fo. 47. C.* to siew in what court  
he will. *Fitzh. nat. br. f. 7. B. &  
32. E.* to siew the writ *Ne ad-  
mutas* after sixe monethes. *Regist.  
orig. fol. 31. a.* that a mans villain  
hauing remained in his auncient  
demesn by the space of a yeare,  
may not be recovered by the  
writ (*de nativo habendo*) *Fitzh.  
nat. br. fol. 79. A.* to graunt an  
office with the (*habendum post  
mortem alterius*) *Dyer. fo. 295. nu.  
1.* to shorten the ordinary time  
of summons (being 15. daies) in  
writ of right. *Brit. ca. 121.* to  
giue what honour or place he  
listeth to his subiects. *anno 31. H.  
8. ca. 10.* to be owner of a forest.  
See *Forest.* to haue free warren.  
See *Warren.* Not to be owted  
of his free hould. *Cromptons In-  
stice of peace. fol. 59. b. & 16. a.*  
to araigne a man being both a  
Traitor, and a Felon, rather vp-  
on the treason, than vpon the  
felony, because he may haue the  
whole escheats. *Idem. eodem. fol.  
99. a.* to warrant the day of ap-  
pearance to his subiect being in  
his seruice, and summoned to  
appeare at a day certaine. *Fitzh.  
nat. br. fol. 17. a.* Diuers of these  
and many others did belong (*fif-  
co imperatorum*) which you may  
finde in the *Digest. De iure fisci.*

& *Co. lib. 10. tit. 1.* Besides these  
also many moe may be obserued  
to belong vnto our King out of  
lawes, which I leaue to their col-  
lection that are of longer read-  
ing, and more painefull industry.

*Prerogative of the Archbishop of  
Canterbury, or Yorke, (prerogativa  
Archiepiscopi Cantuariensis, seu E-  
boracensis)* is an especial pre-  
eminence, that these Sees haue  
in certaine cases aboue ordinary  
Bishops within their Prouin-  
ces. And that of the Arch-  
bishop of *Canterburie*, princi-  
pally consisteth of these points.

First, in the confirmation of  
all elections made of Bishops  
by the Deane and Chapter of all  
Cathedrall Churches, as also  
the consecration of them.

Next, in a power of visi-  
ting his whole Prouince, of  
assembling Synods, of supply-  
ing the defects and negligen-  
ces of inferiour Bishops, of  
receiuing appeales from their  
courtes, of assigning coadiu-  
tours to those Bishops, that grow  
weake and insufficient to dis-  
charge their function, of ap-  
pointing Vicars generall to  
those that haue either none, or  
an insufficient man employed in  
that office: and of dispensing in  
all ecclesiasticall cases, wherein  
the lawes beare dispensation: of  
taking oath of euery Bishop, at  
his confirmation, to performe



canonicall obedience vnto the See of *Canterburie*. But this seem to belong vnto him by an ordinarie archiepiscopall authority.

Certaine other things there be, that appertaine vnto him more then ordinarily to other Archbishops: as the originall calling of any person in any cause belonging to spirituall iurisdiction, out of any part of his prouince, though not appealed. But this point is now limited by the Statute made, *anno 23. Henr. 8. ca. 9.*

The receyuing of an appeale from the lowest Iudge ecclesiasticall within his prouince immediately. The appointing of a keeper or guardian of the spiritualties during the vacancie of any bishopricke. By which means all episcopall rites of the Diocesse for that time do belong vnto him: as Visitation, Institution to Benefices, and such like.

The visitation of euery Diocesse within his prouince, when & in what order it pleaseth him. As also of all other priuiledged Churches. The probate of Testaments and graunting of administrations, in case where the party deceased hath goods of any considerable valew out of the diocesse wherein he dyeth. And that valew is ordinarily five pounds, except it be otherwise by composition betweene the said Archbishop, and some other Bishop:

as in the Diocesse of *London* it is tenne pounds.

The probate of euery Bishops Testament, or the administration of his goods dying intestate, though not hauing any goods, chatels, or debts without the compasse of his owne iurisdiction. The bestowing of any one dignitie or prebend in any Cathedral church vpon the creation of a new Bishop, that himselfe thinketh good to make choice of.

There may be more particulars of this prerogatiue, that I know not: but these may be sufficient to expresse the thing that I desire to declare. Who so desireth to reade these more at large, and other priuiledges of this Church in temporall matters, may resort to the booke intituled: *De antiquitate Britannica Ecclesia, & nominatim de priuilegiis Ecclesia Cantuariensis historia*: and especially to the 8. chapter of the said booke.

*Prerogatiue Court*, (*curia prerogatiua Archiepiscopi Cantuariensis*) is the Court wherein all Wills be proued, and all administrations taken, that belong to the Archbishop by his prerogatiue, which see in *Prerogatiue*. And if any contention do grow betweene two or more touching any such will or administration, the cause is properly debated & deter-

determined in this Court. The Iudge of this Court is called *Index Curie prerogative Cantuariensis*. The Archbishop of Yorke hath also the like power and court, which is tearmed his Exchequer, but farre inferiour to this in countenance and profite.

*Prescription* (*praescriptio*) is a course or vse of any thing for a time beyond the memory of man, as the exposition of the law terms doth define it. *Kirchin fol. 104.* saith thus: Prescription is, when for continuance of time, whereof there groweth no memory, a perticuler person hath perticuler right against another perticuler person. And custome is, where by continuance of time beyond memorie, diuers persons haue gotten a right: with whome agreeth *Sir Edward Cooke, lib. 4. fol. 32. a.* And vsage is by continuance of time the efficient cause of them both, and the life of both prescription and custome. Thus saith *Kitchin*. But as in the Ciuill lawe, so I think likewise in the common, Prescription may be in a shorter time. As for example, where the Statute *anno, 1. H. 8. cap. 9.* saith, that all actions popular must be shewed within three yeares after the offence committed, and the Statute *anno, 7. eiusdem. cap. 3.* That foure yeares being past af-

ter the offence committed in one case, and one yeare in another, no suite can be commenced, and the Statute *31. Eliz. cap. 5.* saith, (by way of correcting the two former statutes) that all actions, &c. brought vpon any Statute, the penaltie whereof belongeth to the King, shall be brought within two yeares after the offence committed, or else be void. And the Statute, *anno 39. Eliz. cap. prim. & secund.* saith, that actions brought after two yeare by any common person, or after three yeares by the king alone for decay of husbandry or tillage, shall bee of noe force. Whosoeuer offendeth against any such Statute, and doth escape vncalled for two yeares, or three yeares, in one case of the two later of these three Statutes, may iustly be said to haue prescribed an immunitie against that action. The like may be said of the Statute made *anno 23. Eliz. cap. primo.* which saith, that all offences comprised in the Statute made in the 13. yeere of *Eliz. cap. 2.* are inquirable before both Iustices of peace and of Assise, within one yeare and a day, after the offence committed. Also the title that a man obtaineth by the passing of five yeares after a fine acknowledged of any lands or tenements, may



justly be said to be obtained by prescription. And whereas the Statute, *anno 8. R. 2. cap. 4.* saith, that a Iudge or Clerke convicted for false entring of ples, &c. may be fined within two yeares; the two yeares being ended, he prescribeth against the punishment of the saide Statute; and whereas the Statute *anno 11. H. 7.* saith, that he which will complaine of maintenance; or embracery, whereby perurie is committed by a Iurie, must doe it within sixe dayes, those sixe daies ended, the parties prescribe: and whereas the statute *anno prim. Ed. 6.* saith, that a man being not indicted within 3 monethes of any offences there mentioned touching Seruice and Sacraments, he shalbe cleare from thence forward: the three monethes being ended, he prescribeth: And the same may be said of the statute *anno 5. Ed. 6. cap. 5.* which saith that a man shall not be indicted of any offence there mentioned touching the decay of tillage, after. 3. yeares. And whereas it is ordeined by the statute *anno 8. H. 6. cap. 9.* that those which keepe possession of lands by force after. 3. yeares possession held by themselves & their auncestours, shall not be subiect to the arbitrement of Disseisors there set

down, I hould this a prescription likewise against those censures. *v. anno 23. H. 6. ca. 15.* Lastly a servant prescribeth liberty after a yeare. *Bratton. li. 1. ca. 10. m. 3.* and the right that is gotten in any Stray to a Lord of a maner, no man claiming it within the yeare and day after proclamation made, is an vsucapion, or prescription. See *Action perpetuall, and temporall.* And see *Cromptons Iustice of peace. fol. 173. b. vbi habebis festum.* But see one rule for all in *Lamb. Eirenarch. li. 4. ca. 5. pa. 469.* Of this prescription, and the learning touching the same, you may reade a solemne report in *S. Ed. Cookes, and Luttrels case. vol. 4. fo. 84. b. & seqq.*

*Presentation (Presentatio)* is vsed properly for the act of a patron offering his Clerke to the Bishop, to be instituted in a benefice of his gift: the forme whereof see in the *Register originall fol. 302. a.*

*Presentment*, is a meere denuntiation of the Iurours themselves, or some other officer, as Iustice, Constable, searcher, surueiours &c. (without any information) of an offence inquirable in the court whereunto it is presented. See *Lambard Eirenarcha, lib. 4. ca. 5. pa. 467.*

*President (Praeses)* is vsed in the Common law for the kings Lieut-

Lluctenent in any Prouince or function: as President of *Wales*, of *Yorke*, of *Barwick*. President of the Kings Councell. anno. 22. H. 8. cap. 8. & anno 24. H. 8. cap. 3. & 14.

*Pregnotarie* (*Protonotarius*) is a word that seemeth to be made either of two French words (*Prime* or *Primer*. i. *primus*) and (*Notaire*. i. *Notarius*, *tabellio*, or of two Latine words (*pra*) & (*notarius*) *quasi primus aut principalis notarius*. The office is likewise borrowed from the later Romanes, who made his name of halfe Greeke, and halfe Latine, viz. *πρωτος*. i. *primus*, *principalis*) and (*Notarius*). It is vsed in our common lawe for the cheife clerks of the Kings courts, whereof 3. be of the common pleas, and one of the Kings bench. For the *pregnotarie* of the common ples, anno 5. H. 4. cap. 14. is termed the cheife clerke of that court. He of the Kings Bench recordeth all actions civile shewed in that court, as the Clerke of the Crowne officeth doth all criminall causes. Those of the common ples doe enter and inrolle all maner of declarations, pleadings, Assises, and Iudgements: and all actions, the same terme that the apparence is made. Also they make out all iudiciall writs, as the *venire facias* after issues ioyned, and

*Habeas corpus*, for the bringing in of the Iurie, after it is returned vpon the *venire facias*. They also make forthe writs of executions, and of seisin, writs of *super sedens*, for appearance to exigents, as well as the exigents, and writs of priuiledges, for remouing of causes from other inferiour courts of Record, in case where the partie hath cause of priuiledge: Also writs of *procedendo*, of *scire facias* in all cases, and writs to inquire of damages: and all proces vpon prohibitions, and vpon writs of *audiri querela*, and false Iudgement. Finally they inrolle all recognisances acknowledged in that court, and all common Recoueries: and may make exemplifications of any Record the same terme, before the rols be deliuered from them.

*Prender*, cometh of the French (*prendre*. i. *accipere*, *acceptare*, *capere*, *prehendere*) it signifies in our common lawe sometime a power, or right to take a thing before it be offered: as such things as lie in *Prender*, or such as lie in render. *West. payre* 2. titula *Fines*. sect. 126. where you haue these words: If the lord graunt the seruices of his tenent by fine, or otherwise, the Lord before atturment, shall haue such things as lie in *prender*: as the ward of the body of the heire and



and of the land: elscheats, &c. but not such things as lie in *prender*, as rents, and releifes, heriots and other seruices. For he canot avowe for them before the attournment.

*Prender de Baron*, signifieth literally in barbarous French to take a husband: but it is vsed in our common lawe, as an exception to disable a woman from persiewing an appeale of murder against the killer of her former husband, *Stawnf. pl. cor. li. 3. cap. 59*. The reason whereof whether it be, because by her second mariage, she may iustly be thought to haue giuen vp the interest shee had in her former husband, or for that shee is now couert againe, or for both, I leaue to consideration.

*Prender del profits*, signifieth *verbatim* to take the profits. It signifieth substantiuelly the taking of the profits. See *(Comptons Iurisdic. fol. 185*. See *Pernour of profits*.

*Prest*, is vsed for some dutie in money to be paide by the Shyreue vpon his accoumpt in the exchequer, *anno 2. & 3. Ed. 6. cap. 4*.

*Prest money*, is so called of the French word (*Prest. i. explicatus, promptus, expeditus*) for that it bindeth those, that haue receiued it, to be ready at all times

appointed.

*Primage*, is a dutie due to the mariners and saylers for the loading of any shippe at the setting forth from any hauen, *anno 32. H. 8. cap. 14*.

*Primer seisin* (*Prima seisina*) *ad verbum* signifieth the first possession. It is vsed in the common lawe, for a braunch of the kings prerogatiue, whereby he hath the first possession of all lands, and tenements through the Realme, holding of him in cheife, whereof his tenent died seised in his demesne as of fee; and so consequently the rents, and profits of them, vntill the heire, if he be of age, doe his homage, if he be vnder yeares, vntill he come to yeares. See *Stawnf. prarog. cap. 3*. and *Bracton lib. 4. tract. 3. cap. pri.*

*Primo beneficio*. See *Beneficio*.

*Prince* (*Princeps*) is a french word, and taken with vsdiuerfly, sometime for the king himselfe, but more properly for the kings eldest sonne, who is prince of Wales, as the eldest sonne to the French king is called *Dolphine*, both being princes by their natiuitie. *M. Eearn in the glory of generositie. pag. 138*. For Edward the first to appease the tumultuous spirits of the Welch men, who being the auncient *Indige-*

ne of this land, could not in long time beare the yoke of vs, whome they call strangers, sent his wife being with childe into Wales. where at Carnaruan shee was deliuered of a sonne, therevpon called Edward of Carnaruan and afterward asked the Welch men, seing they thought much to be gouerned by straungers, if they would be quietly ruled by one of their owne nation; who answering him, yea: then (quoth he) I will appoint you one of your owne country men, that cannot speake one word of English, and against whose life you can take no iust exception: and so named vnto them his sonne borne in Carnaruan not long before. from which time it hath continued, that the kings eldest sonne (who was before called: Lord Prince, *Stawf. prarog. cap. 22. fol. 75.*) hath beene called prince of Wales. *Stowes Annals, pag. 303.* See anno 27. *H. 8. cap. 26.* & anno 28. *eiusdem cap. 3.*

*Principality of Chester. anno 21. Rich. 2. cap. 9.* See *County palatine*. and *Cromptons diuers iurisdictiones, fol 137.*

*Prior perpetuall, or datife and removeable, anno 9. R. 2. cap. 4.* and anno 1. *Ed. 4. cap. 1. paulo ante finem.* Lord prior of Saint Iohns of Ierusalem, anno 26. *H. 8. cap. 2.*

*Priors aliens (Priores alieni)*

were certaine religious men borne in Fraunce, and gouerners of religious houses erected for out-landish men here in England: which were by Henry the fifth thought no good members for this land, after such conquest obtained by him in Fraunce, and therefore suppressed. Whose liuings afterwards by Henry the 6. were giuen to other Monasteries and houses of learning. *Stowes Annals, pag. 582.* See anno 1. *H. 5. cap. 7.* but especially to the erecting of those two most famous Colledges called the Kings Colledges of Cambridge and Eton.

*Prioritie, (prioritas)* signifieth in our common lawe, an antiquitie of tenure in comparison of another not so auncient. As to hold by Prioritie, is to hold of a Lord more aunciently then of another. *old. nat. br. fol. 94.* So to hold in posterioritie, is vsed by *Stawf. prarog. cap. 2. fo. 11.* And *Crompton* in his *Iurisdiction. fol. 117.* vseth this word in the same signification. The Lord of the prioritie shal haue the custodie of the bodie, &c. *fol. 120.* If the tenent hold by prioritie of one, and by posterioritie of another, &c. To which effect, see also *Fitz. nat. br. fol. 142.* *F. Bartolius* in his *Tractate, De insigniis & armis*, vseth these very wordes, *prioritas*, and *posterioritas*) concer-



concerning two that beare one coate armor.

*Prisage*, seemeth to be that custome or share, that belongeth to the King out of such merchandize, as are taken at sea, by way of lawfull prize, *anno 31 Eliz. cap. 5.*

*Prisage of Wines*, *anno 1. H. 8. cap. 5.* is a word almost out of vse, now called *Burterage*, it is a custome wherby the prince chalengeth out of euery barke loaden with wine, containing lesse then forty tunne, two tunne of wine at his price.

*Prise* (*prisa*) commeth of the French (*prendre. i. capere*) it signifieth in our Statutes, the things taken by pourveyours, of the Kings subiects. As *anno 3. Ed. 1. cap. 7. & anno 28. eiusdem. stat. 3. cap. 2.* It signifieth also a custome due to the King, *anno 25. eiusdem. cap. 5. Regist. origin. fol. 117. b.*

*Prisoner* (*priso*) commeth of the French (*prisonnier*) and signifieth a man restrained of his libertie vpon any action ciuill or criminall, or vpon commaundement. And a man may be prisoner vpon mater of Record, or mater of fact: prisoner vpon mater of Record is he, which being present in court, is by the court committed to prison, only vpon an arrest, be it of the Shyreue, Constable, or other.

*Stamf. pl. cor. lib. prim. cap. 32. fol. 34. & 35.*

*Priue*, commeth of the French (*prive. i. familiaris*) and signifieth in our common lawe, him that is partaker, or hath an interest in any action, or thing: as, *pruies of blood, old nat. br. fol. 117.* be those that be linked in consanguinitie. Euery heire in tayle is priuy to recouer the land intayled. *eodem fol. 137.* No priuitie was betweene me and the tenent. *Luteton, fol. 106.* If I deliuer goods to a man to be caried to such a place, and he, after he hath brought them thither, doth steale them, it is felonie: because the priuitie of deliuerie is determined, as soone as they are brought thither. *Stamf. pl. cor. lib. prim. cap. 15. fol. 25.* Merchants priue be opposite to merchant straungers, *anno 2. Ed. tertii. cap. 9. & cap. 14. & ann. eiusdem. stat. 2. cap. 3.* The newe Expositour of lawe termes maketh diuers sorts of priuies: as priuies in estate, priuies in deed, priuies in lawe, priuies in right, and priuies in blood. And see the examples he giueth of euery of them. See *Perkins Conditions. 831. 832. 833.* and *Sir Edward Coke lib. 3. Walkers case. fol. 23. a. & lib. 4. fol. 123. b. & 124. a.* where he maketh foure kinde of priuies, *viz.* priuies in blood, as the heire to his father, &c.

privies in representation, as executours or administratours to the deceased: privies in estate, as he in the reuerſion, and he in the remainder, when land is giue to one for life, and to another in fee: the reason is giuen by the Expoſitour of lawe termes, for that their estates are created both at one time. The fourth sort of priuies are priuies in tenure: as the Lord by eſcheate: that is, when the land eſcheate to the Lord for want of heires, &c.

*Prinie ſeale (priuatum ſigillum)* is a ſeale that the King uſeth ſome time for a warrant, whereby things paſſed the priuy ſignet and brought to it, are ſent farther to be confirmed by the great ſeale of England: ſometime for the ſtrength or credit of other things written vpon occaſions more tranſitory and of leſſe continuance, then thoſe be that paſſe the great ſeale.

*Priviledge (privilegium)* is defined by Cicero in his oration *pro domo ſua*, to be *lex priuata homini irrogata*. Ererotus in *paratitlis ad titulum decretalium de privilegiis*, thus defineth it: *privilegium eſt ius ſingulare, hoc eſt priuata lex qua uni homini, vel loco, vel Collegio, & ſimilibus aliis conceditur*: cap. *privilegia*, diſtinct: 3. *prima enim veteres dixerunt que nos ſingula dicimus*. In ſit Agellius lib. 10. ca. 20. *Idcoq; privilegia modo beneficia, modo perſo-*

*nales conſtitutiones dicuntur, &c.* It is uſed ſo likewise in our common law, and ſometime for the place, that hath any ſpeciall immunity. *Kitchin fol. 118.* in the words: where depters make fained gifts and feoffments of their land, and goods to their freinds, and others, and betake themſelues to priuiledges, &c. Priviledge is either perſonall, or reall: a perſonall priuiledge is that, which is graunted to any perſon, either againſt, or beſide the courſe of the common law: as for example, a perſon called to be one of the Parliament, may not be arreſted either himſelfe, or any of his attendance, during the time of the Parliament. A priuiledge reall is that, which is graunted to a place, as to the Vniuerſities, that none of either may be called to *Weſtm. hall*, vpon any contract made within their owne precincts. And one toward the court of Chauncery, cannot originally be called to any court but to the Chauncery, certaine caſes excepted. If he be, he will remoue it by a writ of Priviledge grounded vpon the ſtatute anno 18. Ed. 3. See the new booke of Entries, verbo *Privilege*.

*Probat of teſtaments (probatio teſtamentorum)* is the producing, and inſinuating of dead mens wils before the eccleſiaſticall Iudge, Ordinary of the place,



where the party dyeth. And the ordinary in this case is knowne by the quantity of the goods, that the party deceased hath out of the *Dioces*, where he departed. For if all his goods be in the same *Dioces*, then the Bishop of the *Dioces*, or the Archdeacon (according as their composition, or prescription is) hath the probate of the Testament: if the goods be dispersed in diuers *Dioces*, so that there be any summe of note (as five pounds ordinarily) out of the *Dioces* where the party let his life: then is the Archbishop of *Canterbury* the ordinary in this case by his prerogative. For whereas in old time, the will was to be proued in euery *Dioces*, wherein the party deceased had any goods: it was thought conuenient both to the subiect, and to the Archiepiscopall See, to make one prooue for all before him, who was and is of all the generall Ordinary of his prouince. But there may be aunciently some composition betweene the Archbishop and an inferiour ordinary, whereby the summe that maketh the prerogative, is about five pound. See *prerogative of the Archbishop*. This probate is made in two sorts either in common forme or *per testes*. The prooue in common forme, is onely by the oath of the executour, or party exhibi-

ting the will, who sweareth vpon his credulity, that the will by him exhibited, is the last will, and testament of the party deceased. The prooue *per testes*, when ouer and beside his oath, he also produceth witnesses or maketh other prooue, to confirme the same, and that in the presence of such as may pretend any interest in the goods of the deceased, or at the least in their absence, after they haue beene lawfully summoned to see such a will proued, if they thinke good. And the later course is taken most commonly, where there is feare of strife, and contention betweene the kindeed and freinds of the party deceased about his goods. For a will proued only in common forme, may be called into question any time within 30. yeares after by common opinion, before it worke prescription.

*Procedendo*, is a writ whereby a plee, or cause formerly called from a base court to the Chaucerie, Kings bench, or common pleges, by a writ of privilege or certiorare, is released, and sent downe againe to the same court, to be proceeded in there, after it appeareth that the defendant hath no cause of privilege, or that the matter comprised in the bille, be not well proued. *Brooke hoc titulo*. and Termes

of lawe: Cooke vol. 6. fol. 63. a. See anno. 21. R. 2. cap. 11. in fine, letters of *procedendo* graunted by the keeper of the priuie seale. See in what diuersitie it is vsed in the table of the originall Register, and also of the Iudiciall.

*Proces* (*Processus*) is the maner of proceeding in every cause, be it personall, or reall, ciuile, or criminall, even from the originall writ to the end. *Bruton* fol. 138. a. wherein there is great diuersitie, as you may see in the table of *Fitz. nat. br. verbo Proces*, and *Brookes Abridgement, hoc inu- lo*. And whereas the writings of our common lawyers sometime call that the proces, by which a man is called into the court and no more: the reason thereof may be giuen, because it is the beginning, or the principall part thereof, by which the rest of the busines is directed, according to that saying of *Aristotle*. ἡ ἀρχὴ ἡμῶν τῶ πάντων. Diuers kinds of proces vpon Inditements before Iustices of peace: See in *Cromptons Iustice of peace*. fol. 133. b. 134. 135. But for orders sake, I referre you rather to *M. Lamberd* in his tractat of proceses adioyned to his *Eirenarcha*, who according to his subiect in hand, diuideth criminall proces, either into proces touching causes of treason, or felonie, and proces touching in-

feriour offices. the former is vsually a *capias*, *capias aliās*, & *exigifacias*. The second is either vpon enditement, or presentment, or information: that vpon enditement or presentment, is all one, and is either generall, and that is a *venire facias*, vpon which if the partie be returned sufficient, then is sent out a *Disfringas insinue* vntill he come: if he be returned with a *Nihil habet*, then issueth out a *Capias*, *Capias aliās*, *Capias pluries*, and lastly an *Exigifacias*. The speciall proces is that, which is especially appointed for the office by statute. for the which he referreth his reader to the 8. Chapter of his 4. booke being very different.

*Processum continuando*, is a writ for the continuance of a proces after the death of the cheife Iustice, in the writ of *oyer and terminer*. Register originall. fol. 128. a.

*Prochein Amy* (*Proximus amicus*, vel *propinquior*) is, word for word, a neere freind. It is vsed in our common lawe, for him that is next of kinde to a childe in his nonage, and is in that respect allowed by lawe, to deale for him in the managing of his affaires: as to be his *Gardian*, if he hold of any in socage, and in the redresse of any wrong done vnto him, be it by his *Gardian*, if he be ward and hold in Chival-



tie, or any others. *Statut. West. pri. cap. 48. 3. Ed. pri. and Westm. 2. cap. 15. anno 13. Ed. pri.*

*Profe, aliis Prove*, is vsed for an Enquest. *anno 28. Ed. 3. cap. 13.*

*Proclamation ( Proclamatio )* signifieth a notice publikely giuen of any thing, whereof the King thinketh good to advertise his subiects. So it is vsed, *anno 7. Rich. 2. ca. 6.* Proclamation of rebellion is a publike notice giuen by the officer, that a man not appearing vpon a *Sub pœna*, nor an attachment in the Starre Chamber or Chauncerie, shalbe reputed a rebell, except he render himselfe by a day assigned. *Cromptons Iurisd. fol. 92. See Commission of rebellion.*

*Proclamation of a fine*, is a notice openly, and solemnly giuen at all the Assises, that shall be holden in the Countie within one yeare after the ingrossing of the fine, and not at the foure generall quarter sessions. And these proclamations be made vpon transcripts of the fine, sent by the Iustices of the Common plees, to the Iustices of Assise, and the Iustices of peace. *West. parte 2. symbol. titulo Fines. sect. 132.* where also you may see the forme of the proclamarion. *Proclamare est palā, & valde clamare*, vsed by *Tullio*, *Linne*, and the *Civilians. m. Quibus ad liberta*

*proclamare non licet.* And *Proclamator* signifieth him *quis litem intendit, vel causam agit.* *Cicero de oratore. lib. pri. Non enim causidicum nescio quem, neq. proclamatorem, aut rabulam hoc sermone conquirimus, &c.* I reade in *Fuzb. nat. br. fol. 85. C.* that the kings proclamation is sufficient to stay a subiect from going out of the Realme. See the force of proclamations. *anno 31. H. 8. cap. 8.* see also Proclamations in diuers cases. *Newe booke of Entries. verbo Proclamation.*

*Proctors of the clergie (procuratores cleri)* are those which are chosen and appointed to appeare for cathedrall, or other Collegiat churches, as also for the common clergie of euery Dioces, at the Parlament, whose choice is in this sort. First, the king directeth his writ to the Archebishop of each province for the summoning of all Bishops, Deanes, Archdeacons, cathedrall and collegiat churches, and generally of all the clergie of his prouince, after their best discretion and iudgement, assigning them the time and place in the said writ. Then the Archebishops proceede in their accustomed course. One example may serue to shew both. The Archebishop of *Canterbury* vpon his writ receiued, directeth his letters to the Bishop of *London* as  
his

his Deane provincial. 1. s. *statuimus de pœnis & verb. tanquam in glos.* first citing himselfe peremptorily: and then willing him to cite in like maner all the Bishops, Deanes, Archdeacons, cathedrall and collegiate churches, and generally all the Clergie of his Prouince to the place, and against the day prefixed in the writ. But directeth withal that one Proctor sent for euery Cathedrall or Collegiat Church, and two for the bodie of the inferiour Clergie of each Diocesse, may suffice. And by vertue of these letters authentically sealed, the said Bishop of London directeth his like letters seuerally to the Bishop of euery Diocesse of the Prouince, citing them in like sort, and commaunding them not onely to appeare, but also to admonish the said Deanes, and Archdeacons, personally to appeare, and the Cathedrall and collegiat Churches, as also the common Clergie of the Diocesse, to send their Proctors to the place, and at the day appointed: and also willeth them to certifie the Archbishop the names of all and euery so monished by them, in a shedule annexed to their letters certificatorie. The Bishops proceed accordingly, and the Cathedrall and collegiate churches as

also the Clergie make choise of their Proctors: which done, and certified to the Bishop, he returneth all answerably to his charge at the day. These proctors of the Clergie, howsoever the case of late dayes is altered, had place and suffrage in the lower house of Parliament, as well as the knights, citizens, Barons of the Cinque ports, and Burgessees. For so it plainly appeareth by the Statute, anno 21. R. 2. cap. 2. & cap. 12. And sithence they were remooued, the Church hath daily growne weaker and weaker: I pray God that in short time she famish not, but that her liberties be better maintained.

*Procurator*, is vsed for him that gathereth the fruites of a benefice for another man. anno 3. R. 2. stat. 1. cap. 2. And *procuracy* is vsed for the specialtie, whereby he is authorized. *Ibid.* They are at this day in the West parts called *Proctors*.

*Profer* (*profrum vel proferum*) is the time appointed for the accmpts of Shyreuees, and other officers in the Exchequer, which is twice in the yeare, anno 51. H. 3. stat. quint. And it may be gathered also out of the Register, fol. 139. in the writ *De Annunato Vicecomitis pro profero faciendo*. I reade also of *profers*, anno 32. H. 8. cap. 21. in these words:



Trinitie terme shall beginne the Monday next after Trinity Sunday, whensoever it shall happen to fall, for the keeping of the essoins, profers, returnes, and other ceremonies heretofore vsed and kept. In which place (*profer*) seemeth to signifie the offer, or indeauour to proceede in action by any man, whom it concerneth so to doe. See *Briton. cap. 27. fol. 50. b. & 55. a. & fol. 80. b. and Fleta lib. 1. cap. 38. §. Vtlagati & seqq.*

*Profer the halfe merke.* See *Halfe merke.*

*Profession (professio)* is in the common lawe, vsed particularly for the entring into any religious Order of Friars, &c. New booke of Entries, *verbo Profession.*

*Profits apprender.* See *Prender.*

*Prohibition, (prohibitio)* is a writ framed for the forbidding of any court, either spirituall or secular, to proceed in any cause there depending, vpon suggestion, that the cognition thereof belongeth not to the said court. *Fitz. nat. br. fol. 39. G.* but is most vsually taken, especially in these dayes, for that writ, which lyeth for one that is impleaded in the *Court Christian*, for a cause belonging to the temporall iurisdiction, or the cognisance of the Kings court, whereby as well the partie and his Councell,

as the Iudge himselve, and the Register, are forbidden to proceed any farder in that cause: for that it appertaineth to the disinherning of the Crowne of such right as belongeth vnto it. In how many cases this lyeth, see *Broke, hoc titulo*, and *Fitz. nat. br. fol. 39. & seqq.* This writ, and the *præmunire*, might in these daies well be spared: For they were helpes to the kings inheritance and Crowne, when the two swords were in two diuers hands. Whereas now both the Iurisdications being settled in the King, there is small reason of either, except it be to wearie the subiect by many quircks and delayes, from obtaining his right: of this prohibition, you may reade *Bracton* also, *lib. 5. tract. 5. cap. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12.* who saith, that it lyeth not after sentence giuen in any cause, howsoever the case is altered: and againe, the statute made, *anno 50. Ed. 3.* which ordaineth, that aboue one prohibition should not lye in one cause. See the diuersitie of prohibitions in the table of the *original Regist.* See the new booke of Entries, *verbo, Prohibition*, and *Fitz. nat. br. fol. 39.*

*Prohibitio de vastodirecta parti*, is a writ Iudiciall directed to the tenant, and prohibiting him from making waste vpon the land

land in controuersie, during the suite. *Register Iudiciall. fol. 21.* It is sometime made to the Shyreue, the example whereof you haue there next following.

*Pro Indiviso*, is a possession, and occupation of lands, or tenements belonging vnto two or more persons, whereof none knoweth his seuerall portion; as Coparceners before partition. *Bracton lib. 5. tracta. 2. cap. pri. nu. 7.*

*Prolocutor* of the conuocation house (*prolocutor domus conuocationis*) is an officer chosen by persons ecclesiasticall publicly assembled by the kings writ at euery parliament. And as there be two houses of conuocation, so be there two prolocutours, one of the higher house, the other of the lower house, who presently vpon the first assembly is by the motion of the Bishops, chosen by the lower house, and presented to the Bishops for their prolocutour, that is, the man by whom they meane to deliuer their resolutions to the higher house, and to haue their owne house especially ordered and gouerned. His office is to cause the clerk to call the names of such as are of that house when he seeth cause, to cause all things propounded to be read by him, to gather the suffrages, and such like.

*Promoters* (*promotores*) be those, which in popular and penall actions doe deferre the names, or complaine of offenders, hauing part of the profit for their reward. These were called among the Romaines *Quadruplatores*, or *Delatores*. They belong especially to the Exchequer and the kings bench. *Smith de Repub: Angla. li. 2. cap. 14.*

*Pro partibus liberandis*, is a writ for the partition of lands betweene coheires. *Register originall, fol. 316.*

*Prophecies* (*prophetie*) be in our common law, taken for wisely foretellings of maters to come, in certaine hidden and enigmaticall speeches. Whereby it falleth out many times, that great troubles are stirred in our common wealth, and great attempts made by those, to whom the speech framed, either by the description of his cognisance, armes, or some other quality, promiseth good successe *anno 3. Ed. 6. cap. 15. & anno 7. eiusdem. cap. 11. & anno 5. Eliza. ca. 15.* But these for distinctions sake are called false, or phantasticall prophecies.

*Property* (*proprietas*) signifieth the highest right that a man hath or can haue to any thing, which is no way depending vpon any other mans courtesie. And this none in our kingdome can be

said



said to haue in any lands, or tenements, but onely the King in the right of his Crowne. Because all the lands through the realme, are in the nature of fee, and doe should either mediately or immediately of the Crowne. See *Fee*. This word neuerthelesse is in our common law, vsed for that right in lands and tenements, that common persons haue, because it importeth as much as (*utile dominium*) though not (*directum*).

*Proprietate probanda*, is a writ. See the *originall Regist.* fol. 83. a. & 85. b. It lyeth for him, that will proue a propertie before the Shyreue. *Brookes Propertie.* 1. For where a propertie is alledged, a replegiare lyeth not. *Idem ibidem.*

*Proprietarie* (*propriarius*) is he that hath a propertie in any thing: but it is most notoriously vsed for him, that hath the fruites of a benefice, to himselfe and his heires or successours, as in time past Abbots and Priors had to them and their successours. See *Appropriation*.

*Prorata portio* is. See *Onerando prorata portio* is.

*Protection* (*protectio*) hath a generall and a speciall signification. In the generall it is vsed for that benefice and safetie, that euery subiect, or Denizen, or alien specially secured, hath by the

Kings lawes. And thus it is vsed, *anno 25. Ed. tertii. capite. 22.* Protection in the speciall signification is vsed for an exemption, or an immunitie giuen by the King to a person against suites in lawe, or other vexations vpon reasonable causes him thereunto moouing, which I take to be a branch of his prerogative. And of this protection, *Fitzh.* maketh two sortes in his *nat. br. fol. 28.* The first forme or sort he calleth a protection, *cum clausula volumus*, whereof he mentioneth foure particulars. A protection, *quia profecturus*, for him that is to passe ouer sea in the kings seruice: A protection, *quia moratur*, for him that is abroad in the Kings seruice vpon the sea, or in the marches, *anno 7. H. 7. cap. 2.* A protection for the Kings debter, that he be not siewed or attached vntill the King be payed his debt. See *anno 15. Ed. 3.* This some Ciuilians call *moratorium*: which see *In singularibus Maranta, verb. Princeps. pag. 79. col. 2.* And a protection in the kings seruice beyond the seas, or on the marches of Scotland: whereof you may reade something, *anno 1. R. 7. cap. 8.* See the *Regist. orig. fol. 23.* and *Britton. cap. 123.* The second forme of protection is tearmed *cum clausula, Nolumus*: which is graunted most commonly

monly to a spirituall company for their immunitie from taking of their catell by the Kings ministers. But it may be graunted also to one man spirituall or temporall. Of these things reade the same authour: and the formes of these writs. See also in the *Register original.* fol. 22. & 23. And see the new *Expositour* of lawe termes, to what action the kings protection doth not extend. See also the new booke of Entries, *verbo Protection.*

*Protonotarie*, (*protonotarius*.) See *Preignetaus.*

*Protestation*, (*protestatio*) is (as Iustice *Walsh* defineth it) a defence or safegard to the partie, which maketh it from being concluded by the act he is about to doe, that issue cannot be ioyned vpon it, *Plowden.* fol. 276. b. whereof see the *Register original.* fol. 306. b. And see *Protest.*

*Protest*, (*protestari*) hath two diuers applications: one is by way of cautell, to call witness (as it were) or openly to affirm, that he doth either not at all, or but after a sort yeeld his consent to any act, as vnto a proceeding of a Iudge in a court, wherein his iurisdiction is doubtfull, or to answer vpon his oath farder then he by lawe is bounde. See *Plowden. casu Grosbroke.* fol. 176. b. and the *Register orig.*

fol. 306. b. Another is by way of complaint to protest a mans bill. For example, if I giue mony to a Merchant in *Fraunce*, taking his bill of exchange to be repayed in *England*, by one to whome he assigneth me, if at my coming I find not my selfe satisfied to my contentment, but either delayed or denyed: then I goe into the Burse, or some open concurse of Merchants, and protest that I am deceiued by him. And thereupon if he haue any goods remaining in any mans hands within the Realme, the lawe of Merchants is, that I be paid out of them.

*Prouuer* (*Probator*) See *Approuuer. anno 5. H. 4. ca. 2.* See *Approuours.*

*Province* (*Prouincia*) was vsed among the Romans for a Country without the compasse of *Italie*, gained to their subiection by the sword. wherevpon the part of *Fraunce* next the *Alpes* was soe called of them, when it was in their dominion, and of that carieth the same name at this present: But with vs a prouince is most vsually taken for the circuit of an Archbishops Iurisdiction, as the Province of *Canterbury*, and the province of *Yorke. anno 32. H. 8. cap. 23. & anno 33. eiusdem,*



dem. cap. 31. yet it is vsed diuers times in our statutes for seuerall parts of the Realme.

*Provincialis* (*Provincialis*) is a cheife gouernour of an order of Friers, anno quar. Henr. quar. cap. 17.

*Protoforestarius*, was he whom the auncient kings of this Realme made cheife of Winfour forett, to heare all causes of death, or mayhem, or of slaughter, or of the Kings deare within the Forest. *Camd. Britan. pag. 213.* See *Iustice of the Forest*.

*Prove.* See *Prose*.

*Prouision* (*Provisio*) is vsed with vs, as it is vsed in the Canon lawe, for the providing of a Bishop, or any other person of an ecclesiasticall liuing, by the Pope, before the Incumbent be dead. It is also called *gratia expectatiua*, or *Mandatum de providendo*. The great abuse whereof in the Pope through all Christendome heretofore, you may read, not only in *Duarrenus de sacris ecclesie ministeriis, & beneficiis. lib. 3. cap. 2.* but also for England particularly, in diuers statuts of the Realme. viz. anno. 25. Ed. 3. cap. 22. stat. 4. & stat. 5. commonly called the statute *de prouisoribus*. & anno. 27. eiusdem. cap. 1. & anno 38. eiusdem. stat. 2. cap. 1. & 2. 3. 4. & anno 38. eiusdem. & anno 2. Rich. 2. cap. 7.

& anno 3. eiusdem. cap. 3. & anno. 7. eiusdem. cap. 12. & anno 12. eiusdem. cap. 15. & anno 13. eiusdem. stat. 2. cap. 2. & 3. & anno 16. eiusdem. cap. 5. & anno 2. H. 4. cap. 3. & 4. & anno 5. eiusdem. cap. pri. & anno 7. eiusdem. cap. 6. & 8. & anno 9. eiusdem. cap. 8. & anno 3. H. 5. cap. 4. See *Pramunire*.

*Provisour* (*Provisor*) is he that sheweth to the court of Rome for a prouision. *old. nat. br. fol. 143.* See *Prouision*.

*Proviso*, is a condition inserted into any deede, vpon the obseruance wherof the validitie of the deede consisteth, which forme of condition seemeth to be borrowed from *Fraunce*. for (*Pourueu Gallicum semper conditionem inducit*. *Tiraquel. tomo. 3. pag. 216.* Our common lawyers say that it sometime signifieth but a couenant, whereof you haue a large dispute in the 2. booke of *Sir Ed. Cokes reports* in the *Lord Cromwells case*. It hath also another signification in maters Iudiciall: as if the plaintife or demandant desist in prosecuting an action, by bringing it to a triall, the defendant or tenant may take out the *venire facias* to the Shyreclue: which hath in it these words, *Prouiso quod, &c.* to this ende, that if the plaintife

tile take out any writ to that purpose, the shyrecue shall summon but one Iurie vpon them both. See *old nattra breuium* in the writ *Nisi prius. fol. 159.*

*Purchas.* See *pourchas.*

*Purples of a womans gowne.*  
anno 33. H. 8. cap. 5.

*Purgation* ( *Purgatio* ) is a cleering of a mans selfe from a crime, whereof he is probably and publicly suspected, and thereof denounced to a Iudge. Of this there was great vse in England touching maters of felonie imputed to Clerks in former time, as appeareth by *Stamf. pl. cor. lib. 2. cap. 48.* See *Clergie.* It is still obserued for mater pertaining to the ecclesiasticall court, as suspicion, or common fame of Incontinencie, or such like. *Purgatio* is either canonicall ( *canonica* ) or vulgar ( *vulgaris* ) Canonicall is that which is prescribed by the Canon lawe: the forme whereof is vsuall in the spirituall courte, the man suspected taking his oath that he is cleere, of the fault objected, and bringing so many of his honest neighbours, being not aboue twelue, as the court shall assigne him, to sweare vpon their consciences and credulitie that he sweareth truly, or hath taken a true oath. Vulgar purgation was by fire, or water, or by combat, vsed by Infidels,

and Christians also, vntill by the Canon lawe it was abolished, *tit. 15. de purgatione Can. & vulga. in Decretalibus.* Combat, though it be lesse in vse then it was, yet is it, and may be still practised by the lawes of the Realme, in cales doubtfull, if the defendant chuse rather the Combat then other triall. See *Ordel.* See *Combat.*

*Purlue*, is all that ground neere any Forest, which being made Forest by Henry the second, Richard the first, or King John, were by perambulations graunted by Henry the third, seuered againe from the same. *Mamwood. parte 2. of his Forest lawes. cap. 20.* And he calleth this ground either *Pourallee. i. perambulationem*, or *purlieu*. and *purluy*, which he saith be but abusiuely taken for *pourallee. ubi supra. nu. 3.* But with the licence of that industrious and learned gentleman, I am bold to say, that this word may be no lesse fitly made of two French words ( *pur. i. purus* ) and ( *lien. i. locus* ) and my reason is, because that such grounds as were by those kings subiected to the lawes, and ordinances of the Forest, are now cleered and freed from the same: for as the Ciuilians cal that *purum locum, qui sepulchrorum religioni non est obstrictus. §. 9. de rerum diuis. in institut.*



So, no doubt, in imitation of that very point, our auncestours called this purlieu, *id est, purum locum*, because it was exempted from that seruitude or thralldom, that was formerly laid vpon it. So (*ager purus est, qui neq; sacer, neq; sanctus, neq; religiosus, sed ab omnibus huiusmodi nominibus vacare videtur. l. 2. §. 4. x. de religio. & sumptibus funerum.*) And therefore M. Cromptons Purraile is not much amiss *fol. 153. of his Jurisd.* because we may also deriue it from the French words (*pur*) and (*Allee*) that is as much to say, as a cleere, or a free walke or passage. And where it is sometime called *Pouralee*, that may and doth come from (*pur*) and (*Allee*). *Itio, profectio, ambulatio*) because he that walketh or courseth within that compasse, is cleere enough from the lawes, or penalties incurred by them, which hunt within the precincts of the Forest. See the *stat. anno 33. Ed. pri. stat. 5.*

*Pourlie man*, is he that hath ground within the *Purlieu*, and being able to dispend 40. shillings by the yeare of free hold, is vpon these two points licensed to hunt in his owne *purlieu*. *Mamwood. parte pri. of his Forest lawes. pag. 151. & 177.* but what obseruations he must vse in his hunting, see him *pag. 180. 181. 186.* See him likewise par-

te 2. cap. 20. nu. 5. 8. 9. &c. See *Purlieu*.

*Purpresture*. See *Poupresture*.

*Pursey*, anno 43. Elizabeth. cap. 10.

*Pursuivant*. See *Poursuivant*.

*Purveyours*. See *Pourveyours*.

*Pyker*, alias *Pycar*, a kind of shippe. anno 31. Ed. 3. Stat. 2. cap. 2.

## Q

**Q***Vadragesima*, is the first son-day in lent, so called (as I take it) because it is the fourth day before Easter. The son-day before that is *Quinquagesima*, the second before *Sexagesima*, the 3. *septuagesima*.

*Que plura*, is a writ, that lieth where an Inquisition hath beene made by the Escheatour in any countie, of such lands or tenements, as any man died seised of, and all that was in his possession be not thought to be found by the office. The forme whereof see in the *Register* original, *fol. 293.* and in *Fitzh. nat. br. fol. 255.* It differeth from the writ called *melius inquirendo*, as *Fitz.* there saith, because this is granted, where the Escheatour formerly proceeded by vertue of his office: and the other, where he found the first office by ver-

ture of the writ called , *Diem clausit exereumum*. See the newe booke of *Entries. verbo. Quaeplura*.

*Quarens non invenit plegium*. is a returne made by the Shyreue vpon a writ directed vnto him with this condition inserted. *Si A fecerit B. securum de loquela sua prosequenda, &c.* Fitzh. nat. br. fol. 38. O.

*Qua seruicia*, is a writ. See *Per qua seruicia*.

*Quale ius*, is a writ Iudiciall, that lieth where a man of religion hath iudgement to recouer land, before execution be made of the Iudgement. for this writ must betweene Iudgement and execution , goe forth to the Escheatour, to inquire whether the religious parson hath right to recouer, or the Iudgement is obtained by collusion betweene the Demaundant and the Tenent, to the intent the true Lord be not defrauded. See *Westm. 2. cap. 32. Cum viro religioso, &c.* the forme of this writ you may haue in the Register Iudiciall, fol. 8. 16. 17. & 46. and in the old. nat. br. fol. 161. See the newe booke of *Entries. verbo. Quale ius*.

*Quare eiecit infra terminum*, is a writ, that lieth for a lessee, in case where he is cast out of his ferme before his terme be expyred, against the feoffee of the

lesseour, that eiecieth him. And it differeth from the *Eiectione Firma*, because this lyeth where the lesseour after the lease made, infeoffeth another, which eiecieth the lessee. And the *Eiectione firma* lieth against any other Straunger, that eiecieth him. The effect of both is all one: and that is to recouer the residue of the terme. See Fitzh. nat. br. fol. 197. See the Register originall, fol. 227. and the newe booke of *Entries. verbo. Quare eiecit infra terminum*.

*Quare impedit*, is a writ, that lyeth for him, who hath purchased a maner with an Advowson thereunto belonging, against him that disturbeth him in the right of his Advowson, by presenting a Clerk thereunto, when the Church is voide. And it differeth from the writ called (*Affisa ultima presentationis*) because that lieth, where a man or his Auncesours formerly presented, and this for him, that is the pourchasour him selfe. See the *Exposition* of the termes of law, and owld nat. br. fol. 27. *Bracton. lib. 4. tracta 2. cap. 6. Britton cap. 92. and Fitzh. nat. br. fol. 32. and the Register originall. fol. 30.* where it is said that a *Quare impedit* is of a higher nature, then *Affisa ultima presentationis*; because it suppoeth both a possession and a right. See at large



the newe booke of *Entrise. verbo.*

*Quare impedit.*

*Quare incumbrauit*, is a writ, that lyeth agaiust the Bishop, which within fixe monethes after the vacation of a benefice, conferreth it vpon his Clerke, whilest two others be contending in law for the right of presenting. Exposition of the terms of law, *old. nat. br. fol. 30.* and *Fitzh. nat. br. fol. 48.* Register originall. fol. 32.

*Quare intrusus matrimonio non satisfacto*, is a writ that lyeth for the Lord againt his tenent being his ward, that after couenable mariage offered him, marieth another, and entreth neuer the lesse vpon his land, without agreement first made with his Lord and Gardian. *Terms of the law.*

*Quare non permittit*, is a writ that lyeth for one that hath right to present for a turne againt the proprietary. *Fleta. lib. 5. cap. 16.*

*Quarentine (quarentina)* is a benefit allowed by the lawe of England, to the widow of a landed man deceased, whereby shee may challenge to continue in his capitall messuage, or cheise mansion house, by the space of 40. daies after his decease. Of this see *Bracton lib. 2. cap. 40.* And if the heire, or any other attempt to eiect her, shee may haue the writ *De Quarentina ha-*

*benda. Fitzh. nat. br. fol. 161.* See anno 9, *H. 3. cap. 7.* & anno 20. *cap. pri.* and *Britton. cap. 103.* *M. Skene de verborum significatione. verbo Quarentina viduarum*, deriueth this word from the French *Quaresme*. Who also haue this custome called *lo quaresme des vesues* granted to widows after the decease of their husbands: as he proueth out of *Tapon in his Arrests libro 15. titulo des dors. cap. 7.* & *lib. 10. tit. Substitutiones cap. 30.* Of this read *Fleta also lib. 5. cap. 22.*

*Quarentena habenda*, is a writ, that lyeth for a widow to inioy her *Quarentine*. Register originall. fol. 175.

*Quare non admisit*, is a writ, that lyeth againt the Bishop refusing to admit his Clerk, that hath recouered in a plee of *Ad-uoxsen*. The furder vse whereof see in *Fitzh. nat. br. fol. 47.* & Register originall: fol. 32. See the new booke of *Entries. verbo quare non admisit.*

*Quare obstruxit*, is a writ, that lyeth for him who hauing a scrutitude to passe through his neighbours ground, cannot inioy his right, for that the owner hath so strengthened it. *Fleta: li. 4. cap. 26. §. Item si minus.*

*Quarter Sessions*, is a court held by the Iustices of peace in euery Countie, once euery quarter. The iurisdiction where-  
of

of how farre it extendeth, is to be learned out of M. *Lamberds Eirenarcha*. Sir Thomas Smith de Republ. Anglor. lib. 2. ca. 19. But to these you must adde the late statutes of the Realme, for their power daily increaseth. Originally it seemeth to haue bene crected onely for maters touching the peace. But in these daies it extendeth much farder. That these Sessions shold be held quarterly, was first of all ordeined (so farre as I can learne) by the statute anno 25. Ed. 3. stat. pri. cap. 8. of these read *Lamberds Eirenarcha* the fourth booke throughout, where he setteth them out, both learnedly, and at large.

*Quashe* (*quassare*) commeth of the French (*quasser* .i. *quassare*, *conquassare*) it signifieth in our common law to ouerthrowe, *Bracton lib. 5. tracta. 2. cap. 3. nu. 4.*

*Quekbord*, anno 17. Ed. 4. ca. 2.

*Que est mesme*, signifieth *verbatim*. Which is the selfe same thing. It is vsed in our common law as a word of art in an action of trespass, or of like nature, for a direct iustification of the very act complained of by the plainiffe as a wrong. for example, in an action of the case, the plainiffe saith that the Lord threatned his Tenents at will in such sort, as he draue them to giue vp their te-

nures. The Lord for his defence pleadeth, that he said vnto them, that if they would not depart, he would fiew them as the law would. This being the same thretning that he vsed, or, to speake artificially. *que est le mesme* the defence is good. Of this see *Kitchin* in the chapter. *Que est le mesme*. fol. 236. where you may haue many like examples.

*Que estate*, word for word, signifieth, *Quem statum*: It signifieth in our common law, a plee whereby a man intitling another to lands, &c. saith that the same estate that he had, himselfe hath from him: for example, in a *Quare impedit* the Plainiffe alleadgeth that such foure persons were seised of lands, whereunto the Advowfen in question was appendant in fee, and did present to the Church, and afterward the Church was voide, *Que estat del*, &c. that is which estate of the foure persons, he saith also, that he hath now during the vacation, by vertue whereof he presently, &c. *Brooke titulo Que estate*. fol. 175. & 176. But it is harder to knowe when this *Que estate* is to be pleaded, then to vnderstand what it is, as by him may appeare. See the new booke of *Enmies. verbo. Que estate*.

*Queene* (*Regina*) is either shee that holdeth the Crowne of this Realme



Realme by right of blood, or els  
 shee that is married to the King.  
 In the former signification shee  
 is in all construction the same  
 that the King is, and hath the  
 same power in all respects. In the  
 other signification shee is inferi-  
 our, and a person exempt from  
 the King. For shee may siew and  
 be siewed in her owne name.  
 Yet that shee hath, is the Kings,  
 and looke what shee looseth, so  
 much departeth from the King.  
*Stawns: prerog: cap. 2. fol. 10.*  
*in fine. See Kitchin fol. 1. b. See*  
*Cooke lib. 4. Copy-hould cases, fo. 23.*  
*b. Augusta was the like among*  
*Romaines, how be it not eiusdem*  
*iuris in all things.*

*Queenes silver. See Kings silver.*

*Quem redditum reddit*, is a writ  
 Iudiciall, that lyeth for him to  
 whom a rent seck, or rent charge  
 is graunted by fine leuied in the  
 Kings Court, against the Tenent  
 of the land, that refuseth to at-  
 turne vnto him, thereby to cause  
 him to attorne. See *old: nat. br:*  
*fol. 156. and West. parte 2. Sim-*  
*bol: titulo Fines. sect: 125. See the*  
*new booke of Entries. Verbo*  
*Quem redditum reddit.*

*Querela frisca fortia*, is a writ.  
 See *Fresh force.*

*Querela coram Rege & consilio*  
*discutenda, & terminanda*, is a  
 writ, whereby one is called to  
 iustifie a complaint of a trespassse  
 made to the king and himselfe

before the King & his counsell.  
*Register originall, fol. 124. b.*

*Questus est nobis, &c.* is the  
 forme of a writ of Nufance,  
 which by the statute *anno 13. Ed.*  
*pri. cap. 24.* lieth against him, to  
 whome the house or other thing  
 that breedeth the Nufance, is  
 alienated, wheras before that sta-  
 tute, this actiō lay onely against  
 him, that first leuied the thing, to  
 the hurt of his neighbour. See  
 the *Statute.*

*Quia improvide*, seemeth to  
 be a superedeas graunted in  
 the behalfe of a clerke of  
 the Chawncerie siewed against  
 the priuiledge of that court, in  
 the common ples, & persiewed  
 to the exigēd. See *Dyer. f. 33. m. 18.*

*Quid iuris clamat*, is a writ  
 Iudiciall issuing out of the Re-  
 cord of the Fine, which remain-  
 eth with the *Custos breuium* of  
 the common place, before it  
 be ingrossed (for afterward it  
 cannot be had) and it lieth for  
 the Grauntee of a Reversion,  
 or Remainder, when the parti-  
 cular tenent will not attorne.  
*West. parte. 2. symbol. titulo. Fines.*  
*sect. 118. whome see farder. See*  
*the Register Iudiciall, fol. 36. 57.*  
*And the newe booke of Entries.*  
*verbis Quid iuris clamat.*

*Quinquagesima Sunday*, is al-  
 way the next Sabbath before  
 Shrouetide, so called, because  
 it is the fiftieth day before  
 Easter.

Easter. The reasons of this appellation who so desireth to know, hee may finde diuers such as they bee, in *Durandi Rationalis diuinorum, capit. De Quinquagesima. Sexagesima Sunday* is the next Sabbath before *Quinquagesima*, so called in the opinion of the said authour, because the number of sixtie consisteth of sixe times tenne: sixe hauing reference to the sixe workes of mercie, and tenne to the tenne commandements. *Septuagesima* is the next before *Sexagesima*, and is instituted and so called, as *Durand* likewise saith, for three things: and (to vse his owne words,) *Primò, propter redemptionem Sabbathi, vel secundum alios, quinta feria, in qua sancti Patres statuerunt ieiunari. Secundo, propter representationem, quoniam representat septuaginta annos captivitatis Babilonica. Tertiò, propter significationem, quoniam per hoc tempus significatur denatio, exilium, & tribulatio totius humani generis ab Adam usq; ad finem mundi: quod quidem exilium sub revolutione septem dierum peragitur, & sub septem millibus annorum includitur.* But of these three dayes, you may reade him at large, that haue a mind to learne of him. I onely take occasion to note, what time of the yeare they be, because I find them spoken of in our an-

cient lawe writers, as *Britton ca. 53.* and such like.

*Quite claime* (*quiete clamantia, vel quieta clamantia*) is a release or acquiting of a man for any action, that he hath, or might haue against him. *Bracton lib. 5. tract. 5. cap. 9. num. 9. & lib. 4. tractat. 6. cap. 13. num. prim.*

*Quittance* (*quietantia,*) see *Acquittance.*

*Quid pro quo*, is an artificiall speech in the common lawe, signifying so much as the Greeke συν'αλλαγμα, among the Ciuilians, which is a mutuall pretestation or performance of both parties to a contract: as a horse and tenne pound betweene the buyer and the seller. *Kitchin, fol. 184.*

*Quinsieme* (*Decima quinta*) is a French word, signifying a fifteenth. It is vsed in our common lawe, for a taxe laid vpon the subiects, by the Prince. *an. 7. H. 7. cap. 5.* so tearmed, because it is rated after the fifteenth part of menslandes or goods. See *Fifteenths* and *Taxe*. The *Fifteenths* (as *Crompton* saith in his *Iurisdict. fol. 21.*) is leuied more commonly in these dayes by the yards of land: and yet in some places by goods also: and note also, that he there saith, that it is well knowne by the *Exchequer rolle*, what euery



towne through England is to pay for a Fifteenth. Sometime this this word *Quinsieme* is vsed for the fifteenth day after any feast, as *Quinsieme* of S. Iohn Baptist. anno 13. Ed. prim. cap. 3. & anno decimo octauo. eiusd. capit. prim.

*Quod ei deforciat*, is a writ that lyeth for the tenent in tayle, tenent in dower, or tenent for terme of life, hauing lost by default, against him that reco- uered, or against his heire. *Exposition of termes*. See *Broke hoc tit.* See the *Regist. original.* fol. 171. and the new booke of Entries. verbo *Quod ei defortiat*.

*Quod permittat*, is a writ, that lyeth for him that is disseised of his commune of pasture, against the heire of the dissei- four being deade. *Termes of lawe. Briton cap. 8.* saith that this writ lyeth for him, whose aunce- stour died seised of commune of pasture, or other like thing annexed to his inheritance, against the *Deforceour*. See *Broke hoc titulo*. See the *Register origin.* fol. 155. and the new booke of Entries. verbo, *Quod permit- tat*.

*Quod Clerici non eligantur in officio Balliui, &c.* is a writ, that lyeth for a Clerke, which by reason of some land he hath, is made, or in doubt to be made either Bayliffe, Bedell, or Reeue,

or some such like officer. See *Clerico infra sacros, &c.* See the *Register orig.* fol. 187. *Fitz. nat. br.* fol. 175.

*Quod Clerici beneficiati de Can- cellaria, &c.* is a writ to exempt a Clerk of the Chauncerie from contribution toward the Pro- ctors of the Clergie in Parla- ment. *Register originall:* fol. 261. a.

*Quod persona, nec Prabendarii, &c.* is a writ, that lieth for spirituall persons, that are dis- strained in their spirituall pos- sessions for the payment of the fifteenth with the rest of the parish. *Fitz. nat. br.* fol. 176.

*Quod non permittat.* See *Consue- tudinibus, & seruiciis*.

*Quo iure*, is a writ, that ly- eth for him that hath land, wherein another chalengeth commun of pasture time out of mind. And it is to com- pell him to shewe by what title he challengeth this com- mune of pasture. *Fitzb. nat. br.* fol. 128. Of this see *Briton* more at large, cap. 59. see the *Register origin.* fol. 156. and the newe booke of Entries. verbo *Quo iure*.

*Quo minus*, is a writ, that lyeth for him, which hath a graunt of housebote, and hey- bote, in another mans woods, against the graunter making such waste, as the grauntee cannot

cannot enioy his graunt. *old nat. br. fol. 148.* Termes of lawe: see *Brooke, hoc titulo.* See *Kitchin fol. 178. b.* This writ also lyeth for the Kings sermer in the Exchequer, against him to whom he selleth any thing by way of bargain touching his serme. *Perkins Graunts. 5.* For he supposeth, that by the breach of the vendee he is disabled to pay the king his rent.

*Quowarranto*, is a writ that lyeth against him, which vsurpeth any *Frawnchis* or libertie against the king, as to haue wayfe, stray, faire, market, court Baron, or such like, without good title. *old. nat. br. fol. 149.* or else against him that intrudeth himselfe as heire into land. *Bracton, lib. 4. tractat. 1. cap. 2. num. 3.* See *Broke hoc titulo.* You may reade of this also. *anno 18. Ed. prim. Stat. 2. & 3. & anno 30 eiusdem.* And the new booke of Entries. *Quowarranto.*

## R

*Racke vintage*, *anno 32. H. 8. cap. 14.* is a second vintage or voyage for wines by our Merchants into *Fraunce, &c.* For rackt wines, that is, wines cledsed and so purged, that it may be and is drawne from the lees. From this voyage our Merchants commonly retorne a-

bout the end of December, or beginning of Ianuarie.

*Radeknights.* See *Rodeknights.*

*Ran*, is a Saxon word, signifying so open a spoiling of a man, that it cannot be denied. *Lamb. Archan. fol. 125.* defineth it thus: *Ran dicitur aperta rapina, que negari non potest.*

*Ransome*, (*redemptio*) commeth of the French (*rançon*) or (*rençon*) i. (*redemptio*.) It signifieth properly with vs, the summe paid for the redeeming of a Captiue: and sometime a great sum of money to be paid for the pardoning of some heinous crime. *anno pri. H. 4. cap. 7.* Note that when one is to make fine, and *Ransome*, the *Ransome* shalbe treble to the Fine. *Cromptons Iustice of peace. fol. 142. a.* and *Lamb. Eirenarch: lib. 4. ca. 16. pa. 556.* *Horne* in his mirrour of Iustices, maketh this difference betweene *amerciament*, and *ransome*, because *ransome* is the redemption of a corporall punishment, due by law to any offence, *lib. 3. cap. de amerciament taxable.*

*Rape* (*rapus vel rapa*) is a part of a county, signifying as much as a Hundred. As *Southsex* is diuided into sixe parts, which by a peculiar name are called *rapes*: viz: the *Rape of Chichester*, of *Arundell*, of *Erember*, of *Lewis*, of *Penexsey*, of *Hastings*. *Camden:*



*Britan. pag. 225.* whom also see *pag. 229.* These parts are in other places called Tithings, Lathes, or Wapentakes. *Smith de Repub. Anglo. lib. 2. ca. 16.*

**Rape** (*raptus*) is a felony committed by a man in the violent deflowring of a woman, be sheeould, or young: *Britton: cap. 1.* whereof *West. parte. 2. Simbol. titulo Inditeiments, secto: 54.* hath these words: *Copulation violent, is termed, a rape, or rauishment of the bodie of a woman against her will: which is carnall knowledge had of a woman, who neuer consented thereunto before the fact, nor after.* (And this in Scotland ought to be complained of the same day, or night that the crime is committed.

*Skene de verborum significa. verbo Raptus.* his reason. *quia lapsus dies hoc crimen praescribitur*) This offence is with vs Felony in the principall, and his ayders. *anno 11. H. 4. cap. 13. anno pri. Ed. 4. cap. pri. Westm. 2. cap. 13.* (But *Fleta* saith that the complaint must be made within fourty daies, or els the woman may not be heard. *lib. 3. cap. 5. §. Præerea.* And carnall knowledge of a woman vnder teane yeares ould is felony *anno. 8. Elizab. cap 6.* Thus far *M. West:* of the diuersity of Rates. see *Cromptons Iustice of peace. fol. 43. b. & 44.* See *Rauishment.* The ciuile lawe vseth (*raptus*) in the same signification. And (*rapere virginem vel mulierem, est ei vim inferre & violere. Co. li. 9. de raptu virginis.*

*Raptu heredis,* is a writ lying for the taking away of an heire houlding in Soccage, and of this there be 2. sorts, one when the heire is married, the other when he is not; of both these see the *Register originall. fol. 163. b.*

*Rastall,* was a Lawyer of reuerend account, that liued in *Queene Maries* daies, and was a Iustice of the common plees. He gathered the statutes of the land into an Abridgement, which carrieth his name at this day. He is also the author of the new booke of *Entries.*

*Ratification (ratificatio)* is vsed for the confirmation of a Clerk, in a prebend, &c. formerly giuen him by the Bishop, &c. where the right of patronage is doubted to be in the King. Of this see the *Register originall: fol. 304.*

*Rationabili parte bonorum,* is a writ that lyeth for the wife against the Executours of her husband, denying her the third part of her husbands goods after debts and funerall charges defrayed. *Fuzb. nat br. fol. 222.* Who there citeth the 18. chap. of *magna charta*, and *Glanuile*, to proue, that according to the common law of England, the goods

goods of the deceased, his debts first paid, should be diuided into three parts, whereof his wife to haue one, his children the second, and the Executours the third. *Fitzherbert* saith also, that this writ lyeth as well for the children, as for the wife. And the same appeareth by the *Regiſter originall fol: 142. b.* I haue heard some learned men say, that it hath no vse, but where the custome of the country serueth for it. See the new booke of *Entries*, verbo: *Rationabili parte: et Rationabili parte bonorum.*

*Rationabilibus diuifis*, is a writ, which lyeth in case, where two Lords in diuers townes haue their seigneuries ioyning together, for him, that findeth his waste, by litle and litle, to haue bene encroched vpon within memory of man, against the other that hath encroched, thereby to rectifie the bounds of their seigneuries. In which respect *Fitzherbert* calleth it, in his owne nature, a writ of right. The *old natura breuium* saith also, that this is a iusticies, and may be removed by a *pone* out of the county to the common Bank: See farther the forme and vse of this writ in *Fitzh. nat. br. fol. 128.* and in the *Regiſter, fol. 157. b.* and the new booke of *Entries. verbo. Rationabilibus diuifis.* The ciuilians call this *Iudicium finium regum-*

*dorum.*

*Rauishment*, *raptus* commeth of the French (*rauiſſement* .i. *di-reptio, ereptio, raptio, raptus, raptura*) and signifieth in our law, an vnlawfull taking away either of a woman, or of an heire in ward. Sometime it is vsed also in one signification with rape, viz. the violent deflowring of a woman, See Rape. And thereupon is the writ called *Rauishment de gard*, otherwise called *de haredo abducto*, lying for the Lord, whose tenent by reason of his tenure in Knights seruice being his ward, is taken and conueied from him. See *Fitzh. natu. br.* in the writ *De recto de custodi.* fol. 140. F. See also the *old nat. br. fol. 92. 93. & 94.* See the new booke of *Entries. verbo. Rape, & Rauishment de gard.*

*Rawe*, anno 4. Ed. 4. cap. 1.

*Rawnge*, commeth of the French (*Ranger* .i. *astinuere, ordinare*) or else the Substantiue (*Rang. i. ordo, series*) It is vsed in our common lawe, both as a verbe (as to *Rawnge*) and also as a substantiue (as to make *Rawnge*) *charta de Foresta. cap. 6.* The word is appropriated to the Forest, signifying the office of the *Rawnger*. The *Rawnger* is a sworne officer of the Forest (of which sort there seeme to be twelue) *charta de Foresta. cap. 7.* whole authoritie is partly declared in his oath, set downe



by *M. Manwood parte pri. of his Forest lawes, pag. 50.* in these words: You shall truly execute the office of a Rawnger in the Purlicuse of *B.* vpon the borders of the kings Forest of *W.* you shall rechale, and with your hound driue backe again the wild beasts of the Forest, as often as they shall raunge out of the same Forest into your Purlicuse. You shall truly present all vnlawfull hunting, and hunters of wild beasts of venerie, as well within the purlicuse, as within the Forest. And these and all other offences you shall present at the Kings next court of Attachements, or Swainmote, which shall first happen, so helpe you God. But the same author setteth downe his office more particularly in his second part c. 20. n. 15. 16. & 17. The summe wherof is this. A Raunger is an officer of the Forest, or to the Forest, but not within the forest, hauing no charge of vert, but only of venison that commeth out of the forest into his charge, or part of the pourallee, to safe conduct them back againe. And therefore in those forests that haue no pourallees, there be no Rawngers, but Forsters serue the turne. This Raunger is made and appointed by the King his letters patents vnder the great seale, and for

his better encouragement in his dutie, he hath a yearely fee of 20. pound or 30. pound paid out of the Exchequer, and certaine fee Deere both redde and falow. His office consisteth cheifely in these three points *ad perambulandum quotidie per terras deafforestatas, ad videndum, audiendum & inquirendum, tam de malefictis, quam de malefactoribus in Ballina sua: ad refugandum feras Foresta tam veneris quam chasea de terris deafforestatis, in terras afforestatas: and, ad presentandū omnes transgressiones Foresta in terris deafforestatis factas, ad proximam curiam illius Foresta tentas.*

*Ransom.* See Ransom.

*Ray,* seemeth to be a word attributed to cloth neuer coloured or died. v. anno 11. H. 4. cap. 6.

*Realitie.* See Royaltie.

*Reasonable ayde* ( *Rationabile auxilium* ) is a duty that the Lord of the fee claimeth holding by Knights seruice or in soccage: to *Marye* his daughter, or to make his sonne Knight. *Westm. 1. cap. 39.* See *Ayde.* See *Brooke titulo Reasonable aide.*

*Reattachement* ( *Reattachimentum* ) is a second attachment of him, that was formerly attached, and dismissed the court without day, as by the not coming of the Iustices, or some such like causualtie. *Brooke tit. Reattachment;* where he maketh a

*Reat-*

Reattachment generall and a Reattachment speciall . Reattachment general seemeth to be, where a man is reattached for his appearance vpon all writs of Assise lying against him. *Brooke eodem nu.* 14. Then speciall must be for one, or more certaine, Register Iudiciall, fol. 35. See the newe booke of *Enrise. verbo Reattachment.*

*Rebellion (Rebellio)* is a French word signifying the taking vp of armes against the King or present estate . This French cometh from the Latine (*Rebellio*) which signifieth a second resistance of such as being formerly ouercome in battaile by the Romanes, yeelded themselues to their subiection . The French men and we vse it generally for the traiterous taking vp of armes against the estate, be it by naturall subiects, or by others formerly subdued . Reade more of this. *lib.* 3. *fendorum* cap. 61. and *Hotoman* vpon the same chapter. See the writ of *Rebellion* . *Rebell* is sometime attributed to him that wilfully breaketh a lawe. *anno* 25. *Ed.* 3. cap. 6. & *anno* 31. *eiusdem*, *stat.* 3. c. 2. sometime to a villein disobeying his Lord, *a. 1. R. 2. c. 6.*

*Rebellious Assembly*, is a gathering together of 12. persons or more, intending or going about, practising, or putting in vre

vnlawfully of their owne authoritie to chaunge any lawes, or statutes of this Realme, or to destroy the inclosure of any park, or ground inclosed, or bankes of any fisheponds, pale, or conduit, to the intent the same shall remaine voide, or to the intent vnlawfully to haue common, or way in any of the said grounds, or to destroy the Deere in any Park, or any warré of conies, or douchouses, or fish in any pondes, or any house, barnes, mils, or bayes, or to burne stacks of corne, or to abate rents, or prices of victuals, *an. pri. Mar. c. 12. & an. 1. Eliza. cap. 17.* See *West. partie 2. symbol. titulo Inditements. Sectio. 65.* And *Cromptons Iustice of peace. f. 41. b.*

*Rebutter*, cometh of the French (*Bouter. i. pellere, impellere, propellere, intrudere*) and signifieth in our common lawe the same thing. For example, a man giueth land to him and the issue of his body, to another in fee with warranty. And the *Donnee* leaseth out this land to a third for yeares. The heire of the *Donour* impleaderth the tenent, alleading that the land was intailed to him. The *Donnee* cometh in, and by vertue of the warrantie made by the *Donour*, repelleth the heire, because though the land were intailed to him: yet he is heire to the warranty likewise;



wife; and this is called a Rebutter. See *Brooke. titulo Barre. nu. 13.* And againe if I graunt to my tenent to hould *sine impetitione vasti*, and afterward I implede him for waste made, he may debarre me of this action, by shewing my graunt, and this is likewise a Rebutter. *Idem, eodem, nu. 25.* See the newe booke of Entries, *verbo Rebutter.*

*Renant, anno 32. H. 8. ca. 2.*

*Recaption* (*Recaptio*) signifieth a second distresse of one formerly distreined for the selfe same cause, and also during the plee grounded vpon the former distresse. It likewise signifieth a writ lying for the party thus distreined, the forme, and farder vse whereof, you may see in *Fitzb. nat. br. fol. 71.* and the *Register orig. fol. 86.* and the *Register Iudiciall, fol. 69.* and the new booke of Entries, *verbo. Recaption.*

*Receyver* (*Receptor, or Receptor*) generally and indefinitely vsed, is as with the Ciuilians, so also with vs, vsed commonly in the euill part for such as receiue stollen goods from theeves, and conceale them. *l. 1. c. de receptatoribus*, but annexed to other words, as the receiuer of rents, &c. it signifieth many times an officer of great accompte, belonging to the king or other great personage. *Cromptons Iurif-*

*dict. fol. 18.* There is also an officer called the *Receiuer of Fynes*, who receiue the mony of all such, as compound with the King in the office of the finances for the buying of any lands, or tenements houlden in *Capite. West. parte 2. symbol. titulo Fines. sect. 106.* Receiuer of all offices accounttable. *anno. 1. Ed. 4 ca. 1.*

*Receiuer generall of the Duchy of Lancaster*, is an officer belonging to the Duchy court, that gathereth in all the reuenues and fines of the lands of the said Duchy, and of all forfeitures and assessments, or what else is thence to be receiued.

*Receiuer generall of the court of Wards and liveryes*, is an officer belonging to that court, that is to receiue all rents, reuenues and fines of the lands belonging to his maiesties wards, as also the fines for licences to the Kings widowes to marry, of *ouster le main* sued out, and for idiots and lunatikes land, and finally all other profits whatsoever in mony arising to his maiestie out of or by reason of the court of wards and liveryes.

*Receiuer generall of the Muster rolles, anno. 35. El. ca. 4.*

*Receiuer generall of the Duchy of Lancaster of the wards, and liveryes, anno 39. Elizab. cap. 7.*

*Receyt. See Resceit.*

*Refuse,*

*Recluse* (*Reclusus*) is he, that by reason of his order in religion, may not stirre out of his house or cloyster. *Littleton fol. 92.*

*Recognisance* (*Recognitio*) cometh of the French (*Reconnoissance. i. agnitio, recognitio*) and in our common lawe is thus defined. A *Recognisance* is a bond of record, testifying the recognizour to owe vnto the recognizee a certaine summe of money, and is knowledged in some court of record, or before some Iudge or other officer of such court, hauing authoritie to take the same: as the Masters of the Chancerie, the Iudges of either Bench, Barons of the Exchequer, Iustices of peace, &c. And those that be meere recognisances are not sealed, but inrolled. And execution by force thereof is of all the recognisours goods, and chatels, except his draught beasts, and implements of husbandrie, and of the moitie of his lands, *West. parte prim. symb. lib. 2. titulo Recognisances. sect. 149.* And of these you may see there great diuersitie of precedents:

Note farder, that a *Recognizance*, though in the speciall signification, it do but acknowledge a certaine debt, and is executed vpon all the

goods, and halfe the lands of the recognisour: yet by extention it is drawne also to the Bonds, commonly called *Statute Merchant*, and *Statute of the Staple*: as appeareth by the *Register original. fol. 146. 151. & 252.* and by *West. ubi supra*, and others. See *Statute Merchant*, and *Statute Staple*.

*Recognisance* hath yet another signification, as appeareth by these wordes in the statute, *West. 1. c. 36. anno 3. Ed. 1.* It is provided also and agreed, that if any man be attainted of disseisin done in the time of our King that now is, with roberie of any maner of goods, or moueables, by recognisance of Assise of *nouel disseisin*, the iudgement shall, &c. In which place it is vsed for the verdict of the twelue men empaneled vpon an Assise, which twelue are also called recognitours of the Assise, *Littleton fol. 72.* So also *Bracton* calleth them *lib. 5. tractat. 2. cap. 9. num. 2.* in these words: *In essonio verò reddendo exigentur omnes illi, quos causa tetigerit: sicut particeps, Warrantus, & alii ut supra. Recognitores in Assis, Iuratores in Iuratis, Inquisitores in Inquisitionibus, &c.* And againe, *lib. 3. tract. prim. cap. 11. num. 16.* See the Statute anno 20. *Ed. prim. stat. 4.* See the newe book of Entries, *ver. Recognisance.*



*Recognitione adnullanda per vim & duritiem facta*, is a writ to the Iustices of the common Bench, for the sending of a record, touching a recognisance, which the recognisour suggesteth to be acknowledged by force and hard dealing, that if it so appeare, it may be disanulled. *Register original. fol. 183. a. b.*

*Recognitors (recognitores)* is a word vsed for the Iurie empaneled vpon an assise. The reason why they be so called, may be, because they acknowledge a disseisin by their verdict. See *Bracton lib. 5. tract. 2. cap. 9. num. 2. & lib. 3. tract. prim. cap. 11. num. 16.*

*Record, (recordum)* commeth of the Latine (*recordari*.) The word is both French and English, and in both tonges signifieth an authentickall or uncontroulable testimonie in writing. *Britton cap. 27. and Lamb. Erenarch. lib. 1. cap. 13.* In the Grand Customarie of *Normandie*, there are seuerall Chapters of diuers records, expressing whose presence in each of the Courts, is sufficient to make that which is enacted to be a record. viz. the 102. chapter, where you haue wordes to this effect. The record of the Kings Court, is a record of things done before the King. All things done before the King,

so he haue one other witness. This record may he and other make: if he himselfe will not make it, it may be made by three others. And his person may not bee impeached (or excepted against) either in this or any other thing. The next chapter. viz. the 103. sheweth how many persons suffice to make a record in the Exchequer. The next how many in an assise, &c.

I find not that wee in our Courts (especially the Kings Courts) stand much vpon the number of recorders or witnesses for the strength of the testimonie which the record worketh: but that we take it sufficient which is registred in each Court: *Glanville lib. 8. cap. 8. Bracton lib. 3. tract. 2. cap. 37. num. 4.* *Britton* in the Proeme of his booke, saith, that the Iustices of the Kings Bench haue a record, the Coroner, Vicount, Iustices of the Exchequer, Iustices of Goale deliuerie, the Steward of *England*, Iustices of *Ireland*, Iustices of *Chester*, Iustices assigned by the Kings Ietters patents, in those causes they haue commission to take knowledge of. All which (as I take it) must be vnderstood with that caueat of *Brooke, titulo (Record) num. 20 & 22.* that an act committed to writing in any of the Kings Courts,

Courts, during the terme where-  
in it is written, is alterable, and  
no record: but that terme once  
ended, and the said act duly en-  
rolled, it is a record, and of that  
credit, that admitteth no altera-  
tion, or proofe to the contrarie.  
Yet see *Sir Edward Cookes Reports*  
*lib. 4. Rawlins case. fol. 52. b. ann.*  
*12. Ed. 2. cap. 4.* It is said, that  
two Iustices of either Bench haue  
power to record Non suites, &  
Defaults in the countrey. It ap-  
peareth by *Bracton, lib. 5. tract.*  
*2. c. 1. & 11.* that *quatuor milites*  
*habent recordum*, being sent to  
view a partie effoined *de malo*  
*lecti*, and *lib. 5. tract. 1. cap. 4. nu.*  
*2.* that *Serviens Hundredi habet*  
*recordum in testimonio proborum*  
*hominum*. And in the Statute of  
*Carles I.*, made *anno 15. Ed. 2.* it is  
said, that one Iustice of either  
Bench with an Abbot, or a Prior,  
or a Knight, or a man of good  
fame and credence, hath a re-  
cord in the view of one that is  
said by reason of sicknesse, to be  
vnable to appeare personally for  
the passing of a fine. And *anno*  
*13. H. 4. cap. 7. & anno 2. H. 5.*  
*cap. 3.* that two Iustices of peace,  
with the Shyreue, or Vnder-  
shyreue haue power to record,  
what they find done by any in  
a ryot, or route, &c.

That which is before mention-  
ed out of *Britton* touching the  
Shyreue, seemeth to be limited

by *Fitzh: nat. br. fol. 81. D.* Who  
alloweth him a Record in such  
matters onely, as he is commaun-  
ded to execute by the Kings  
writ, in respect of his office. And  
thence it commeth that *Kitchin*  
*fol. 177.* saith, that the Eschea-  
tour, and Shyreue be not Iusti-  
ces of record, but officers of re-  
cord. In which words he signifi-  
eth, that their testimony is au-  
thenticall onely in some certaine  
things that are expressly inioyned  
them by vertue of their Com-  
mission, as ministers to the King  
in his higher Courts, whereas  
Iustices of record haue in genera-  
lity a record for all things within  
their cognisance done before  
them as Iudges, though not ex-  
pressly or particularly commaun-  
ded. *Fitzherbert* in his *Nat: br. fo.*  
*82. in principio*, something explai-  
neth this point, writing to this  
effect: Euery act that the Shy-  
reue doth by vertue of his com-  
mission, ought to be taken as  
mater of record, no lesse then the  
Iustices of peace. His reasons be  
two: the former, because his pa-  
tent is of record: the other, be-  
cause he is a conseruatour of the  
peace. And then he addeth, that  
the ples held before him in  
his County be not of record. Yet  
is the county called a Court of  
record. *Westm. 2. ca. 3. anno 13.*  
*Ed. 1.* But it seemeth by *Britton*,  
*cap. 27.* that it is onely in these



causes, whereof the Shyreue houldeth plee by especial writ; and not those that he houldeth of course or custome. And in that case also it may be gathered out of the same authour, that he hath a record, but with the testimony of those annexed, that be suiters to the Court. Which seemeth to agree with *Bractons* words about specified. *Seruiens Hundred habet recordum in testimonio proborum hominum.* And to this purpose read *Glanuile. lib. 8. cap. 8. 9. & 10.* One Iustice vpon view of forcible detinew of land, may record the same by statute. *anno 15. R. 2. cap. 2.* the Maior, and Constables of the Staple, haue power to record recognisances of debt taken before them. *anno 10. H. 6. ca. 1.*

*Brooke, titulo (Record)* seemeth to say, that no court ecclesiasticall is of record: how truly, it is to be inquired. For Bishops certifying bastardy, bigamy, excommunication, the vacancy or plenarty of a Church, a mariage, a diuorce, a spirituall intrusion, or whether a man be professed in any religion, with other such like, are credited without farder enquiry or controlment. See *Brooke, titulo Bastardy.* See *Flesa. lib. 6. ca. 39. 40. 41. 42.* *Lamb. circumarcha: lib. pri. cap. 13.* *Glanuile. li. 7. ca. 14. & 15.* the Register original: fol. 5. b. *Bracton. lib. 5.*

*tracta. 5. ca. 20. nu. 5.* *Britton ca. 92. 94. 106. 107. & 109.* *Doff. and Stud. li. 2. ca. 5.* but especially *Cosius apologic. parte pri. ca. 2.* And a testament shewed vnder the scale of the Ordinary is not trauerfable. *36. H. 6. 31. Perkins Testament. 491. Fulb. paral. fol. 61. b.* But it may be that this opinion groweth from a difference betweene that law, whereby the court Christian is most ordered, and the common law of this land. For by the ciuile or canon law no instrument, or record is held so firme, but that it may be checked by witnesses able to depose it to be vnttrue. *Co. plus valere quod agitur quam quod simulat concipitur. ca. cum Iohannes. 10. extra: de fide instrumentorum.* Whereas in our common law against a record of the Kings Court, after the terme wherein it is made, no witnes can preuaile. *Britton. ca. 109. Coke lib. 4. Hindes case. fol. 71. lib. assisarum fol. 227. nota. 21.* This reconciliation may be iustified by *Brooke* himselfe. *titulo, Testaments. num. 4. 8. & 14.* and by *Glanuile, lib. 8. cap. 8.*

The King may make a court of record by his graunt. *Glanuil. li. 8. ca. 8.* *Britton cap. 121.* as for example, *Queene Elizabeth* of worthy memory by her Charter dated. *26. Aprilis. anno 3. regni sui* made the Consistory Court of the

the Vniuersity of Cambridge a Court of record.

There are reckoned among our common lawyers three sorts of records: *viz.* A record iudiciall, as attainder, &c. A record ministeriall vpon oath, as an office found. A record made by conueyance by consent, as a fine, deede enrolled, or such like. *Coke. li. 4. Andrew Ognels case. fo. 54. b.*

*Recordare facias*, or *recordari facias*, is a writ directed to the Shyreue, to remoue a cause depending in an inferiour court, to the Kings bench, or common ples, as out of a court of auncient Demesne, Hundred, or Countie, *Fitz. nat. br. fol. 71. B.* out of the countie Court. *idem. fo. 46. B.* or other courts of record. *idem. fol. 71. C. & 119. K.* Howbeit, if you will learne more exactly, where, and in what cases this writ lyeth, reade Brooke in his *Abridgm. titulo, Recordare & pone.* It seemeth to be called a *recordare*, because the forme is such, that it commaundeth the Shyreue to whom it is directed, to make a record of the proceeding by himselfe, and others, and then to send vp the cause. See the *Regisler, verbo, Recordare*, in the Table of the originall Writs. See *Certiorari.* See *Accedas ad Curiam.*

Recorder (*recordator*) commeth

of the French (*recordeur. i. talis persona que in Ducis Curia à iudicio faciendo non debet amoueri.*) *Grand Customarie of Norm. cap. 107. & 121.* Whereby it appeareth, that those which were necessarie Judges in the Duke of Normandies Courts, were called *Recorders*: and who they were, is shewed in the ninth chapter of the said booke. And that they, or the greater part of them, had power to make a record, it is euident in the chapter 107. Here in England a Recorder is he, whome the Maior or other Magistrate of any citie, or towne corporate, hauing Iurisdiction, or a Court of record within their precincts by the Kings graunt, doth associate vnto him for his beter direction in maters of Iustice and proceedings, according vnto lawe. And he is for the most part a man well seene in the common lawe.

*Recordo & processu mittendis*, is a writ to call a Record, together with the whole proceeding in the cause, out of one court into the Kings Court. Which see in the Table of the *Regisler orig.* how diuersly it is vsed.

*Recordo utlagarie mittendo*, is a writ Iudiciall, which see in the *Regisler iudicial. fol. 32.*

*Reconuerie* (*Recuperatio*) cometh of the French *Reconuerir. i. Recuperare.* It signifieth in our commo



lawe, an obtaining of any thing by Iudgement, or triall of lawe, as *euictio* doth among the Ciuilians. But you must vnderstand, that there is a true recouerie and a feigned. A true Recouerie is an actual, or reall recouerie of any thing, or the value thereof by Iudgement: as if a man shewd for any land, or other thing moueable or immoueable, and haue a verdict, and Iudgement for him. A feigned recouerie is (as the Ciuilians call it) *quadam fictio iuris*. a certaine forme, or course set downe by lawe, to be obserued for the better assuring of lands or tenements vnto vs. And for the better vnderstanding of this, reade *West. parte 2. symbol. titulo Recoveries. sect. pri.* who saith, that the end, and effect of a Recouerie, is to discontinue and destroy estates Tayles, Remainders, and Reuerfions, and to barre the former owners thereof. And in this formality there be required 3. parties, *viz.* the Demaundant, the Tenent, and the Vowchee. The Demaundant is he that bringeth the writ of Entrie, and may be termed the Recoverer: The Tenent is he, against whom the writ is brought, and may be termed the Recoueree. The Vowchee is he, whom the tenent vowcherh, or calleth to warrantie for the land in demanda.

*West. ubi supra.* In whom you may reade more touching this mater.

But for example to explaine this point, a man that is desirous to cut of an estate tayle in lands or tenements, to the end, to sell, giue, or bequeath it, as him self seeth good, vseth his friend to bring a writ vpon him for this land. He appearing to the writ saith for him selfe, that the land in question came to him or his auncesters from such a man or his auncester, who in the conuicance thereof, bound him selfe and his heires to make good the title vnto him or them to whome it was conueied. And so he is allowed by the court to call in this third man to say what he can for the iustifying of his right to this land, before he so conueied it. The third man commeth not: wherevpon the land is recovered by him that brought the writ: and the tenent of the land is left for his remedie to the third man that was called and came not in to defend the tenent. And by this meanes the entayle which was made by the tenent, or his auncester, is cut of by iudgement herevpon giuen: for that he is pretended to haue no power to entaile that land, wherevnto he had no iust title, as now it appeareth: because it

is euided , or recouered from him.

This kinde of recouery is by good opinion, but a snare to deceiue the people. *Doctor & Stud. ca. 32. dial. pri. fol. 56. a.* This feigned Recouery is also called a common Recouery : And the reason of that *Epitheton* is , because it is a beaten and common path to that end , for which it is ordeined, *viz.* to cut of the estates about specified. See the new booke of Entries *verbo. Recovery.*

I saide before , that a true recouery is as well of the value, as of the thing : for the beter vnderstanding whereof, know, that (In valew) signifieth as much as (*Illud quod interest*) with the Ciuilians. For example , if a man buy land of an other with warranty , which land a third person afterward by suite of lawe recouereth against me , I haue my remedie against him that sold it me , to recouer in value, that is, to recouer so much in mony as the land is worth, or so much other land by way of exchange. *Fitzh. nat. br. fol. 134. K.* To recouer a warranty, *old. nat. br. fol. 146.* is to proue by iudgement that a man was his warrant against all men for such a thing.

*Resto*, is a writ, called in English, a writ of Right, which is of

so high a nature, that whereas other writs in reall actions , be onely to recouer the possession of the land, or tenements in question, which haue beene lost by our auncester, or our selues, this aimeth to recouer both the seisin, which some of our Auncesters, or wee had, and also the propertie of the thing, whereof our Auncester died not seised, as of fee : and whereby are pleaded , and tried both the rights together, *viz.* as well of possession, as property. In somuch as if a man onceloose his cause vpon this writ, either by Iudgement, by Assise, or barell, he is without all remedie, and shall be excluded (*per exceptionem Rei indicatae*) *Bracton lib. 5. traſt. 1. cap. 1. & seqq.* where you may reade your file of this writ.

It is diuided into two species: *Rectum patens* , a writ of right patent , and *Rectum clausum*, a writ of right close . This the Ciuilians call *Iudicium petitorium*. The writ of right patent is so called, because it is sent open, and is in nature the highest writ of all other, lying alwaies for him that hath fee simple in the lands, or tenements siewed for, and not for any other. And when it lieth for him that chalengeth fee simple, or in what cases, See *Fitzh. nat. br. fol. pri.* Canhome see also. *fol. 6.* of a speci-



speciall writ of right in *London*, otherwise called a writ of right according to the Custome of *London*. This writ is also called *Breue magnum de Recto. Register originall. fol. 9. A. B. and Fleta li. 5. cap. 32. §. 1.*

A writ of right close, is a writ directed to a Lord of *auuncient Demesne*, and lieth for those, which hold their lands and tenements by charter in fee simple or in fee taile, or for terme of life, or in dower, if they be ejected out of such lands, &c. or disseised. In this case a man or his heire may shew out this writ of Right close directed to the L. of the *Auncient Demesne*, commanding him to doe him right, &c. in his court. This is also called a small writ of right. *Breue paruum, Register originall. fol. 9. a. b. and Britton, cap. 120. in fine.* Of this see *Fitzb. likewise at large. nat. br. fol. 11. & seqq.*

Yet notethat the writ of right patent seemeth farder to be extended in vse, then the originall inuention serued: for a writ of Right of Dower, which lieth for the tenent in Dower, and onely for terme of life, is patent, as appeareth by *Fitzb. nat. br. fol. 7. E.* The like may be said of diuers others that doe hereafter followe. Of these see also the table of the originall Register. *verbo Recta.* This writ is proper-

ly tried in the Lords court betweene kindsmen, that claime by one title from their *Auncster.* But how it may be thence remoued, and brought either to the Countie, or to the kings court, see *Fleta, lib. 6. cap. 3. 4. & 5. Glanville* seemeth to make euery writ, whereby a man sheweth for any thing due vnto him, a writ of right. *lib. 10. ca. 1 lib. 11. cap. 1. lib. 12. cap. 1.*

*Recto de dote*, is a writ of Right of Dower, which lieth for a woman, that hath receiued part of her Dower, and purposeth to demand the Remanent in the same towne, against the heire, or his Gardian, if he be ward. Of this see more in the *old nat. br. fol. 5. and Fitzb. fol. 7. E.* and the Register originall, fol. 3. and the newe booke of Entries, *verbo Droyt.*

*Recto de dote unde nihil habet*, is a writ of right, which lieth in case, where the husband hauing diuers lands or tenements, hath assured no dower to his wife, and she thereby is driuen to shew for her thirds against the heire or his Gardian, *old. nat. br. folio 6. Register originall, fol. 170.*

*Recto de rationabili parte*, is a writ that lieth alway, bewene priuies of bloud, as brothers in *Geruel-kind*, or sisters, or other Coparceners, as Nephewes or

Neces, and for land in Fee simple. For example, if a man lease his land for tearme of life, and afterward dyeth, leauing issue, two daughters, and after that the tenent for terme of life likewise dyeth: the one sister entering vpon all the land, and so deforcing the other; the sister so deforced, shall haue this writ to recouer her part. *Fitz. nat. br. fo. 9. Register origin. fol. 3.*

*Recto quando Dominus remisit*, is a writ of right, which lyeth in case, where lands or tenements that be in the Seignurie of any Lord, are in demaund by a writ of right. For if the Lord hold no Court, or otherwise at the prayer of the Demandant, or Tenent, shall send to the Court of the King his writ, to put the cause thither for that time (sauiug to him another time the right of his Seignurie) then this writ issueth out for the other partie, and hath this name from the words therein comprised, being the true occasion thereof. This writ is close, and must be returned before the Iustices of the common Bancke. *old. nat. br. fol. 16. Regist. orig. fol. 4.*

*Recto de Advocatu Ecclesie*, is a writ of right, lying where a man hath right of *Advowzen*, and the Parson of the Church dying, a straunger presenteth his Clerke to the Church, & he not hauing

moued his action of *Quare impedit* nor *darrein presentment* within fixe monethes, but suffered the straunger to vsurpe vpon him. And this writ he only may haue, that claimeth the *Aduowzen*, to himselfe and to his heires in fee. And as it lyeth for the whole *aduowzen*: so it lyeth also for the halfe, the third, the fourth part. *old. nat. br. fol. 24. Register originall. fol. 29.*

*Recto de custodia terra & heredis*, is a writ that lyeth for him, whose Tenent houlding of him in Chivalry, dyeth in his nonage, against a straunger, that entreth vpon the land, and taketh the body of the heire. The forme, and farder vse whereof see in *Fitzh. nat. br. fol. 139. and the register originall: fol. 161.*

*Recto sur disclaimer*, is a writ that lyeth, where the Lord in the kings court, *sc:* in the common plects, doth avow vpon his tenent, and the Tenent disclaimeth to hould of him, vpon the disclaimer he shall haue this writ: and if the Lord auerre, and proue, that the land is houlden of him, he shall recouer the land for euer. *old. nat. br. fo. 150.* which is grounded vpon the statute, *Westm. 2. ca. 2. anno 13. Ed. pri.* which statute beginneth. *Quia Domini feudorum, &c.*

*Rector*, is both Latine, and English, signifying a Gouvernour. In



the common law *reſtor eccleſia parochialis*, is he that hath the charge, or cure of a pariſh Church: *qui tantum ius in eccleſia parochiali habet, quantum praelatus in eccleſia collegiata. ca. vlt. De locat; & Conduct; in gloſ: verbo Expelli potuiſſent.* In our common law, I heare that it is lately ouer ruled, that *reſtor eccleſie parochialis* is he, that hath a perſonage, where there is a vicarage, endowed: and he that hath a perſonage without a vicarage, is called *perſona*. But this diſtinction ſeemeth to be new and ſubtile *præter rationem*. I am ſure *Bracton* ſeeth it otherwiſe, *lib: 4. tracta: 5. ca. pri.* in theſe words. *Et ſciendum quòd reſtoribus eccleſiarum parochialium competit Aſſiſa qui inſtituti ſunt per Episcopos, & Ordinarios ut perſona.* Where it is plaine, that *reſtor* and *perſona* be confounded. Marke alſo theſe words there following: *Item dici poſſunt reſtores Canonici de eccleſiis præbendatis. Item dici poſſunt reſtores, vel quaſi, Abbates, Priores & alii, qui habent eccleſias ad proprios uſus.*

*Rectus in curia*, is he that ſtandeth at the barre, and hath no man to obieſt any offence againſt him. *Smith de repub: Angl: li. 2. c. 3. ſee a. 6. R. 2. ſta. 1. c. 12.*

*Reddendum*, is uſed many times ſubſtantiuely for the claufe in a leaſe, &c. Whereby the rent is

reſerued to the leaſour. *Coke lib. 2. Lord Cromwells caſe. fol. 72. b.*

*Rediſſeiſin* (*rediſſeiſina*) is a diſſeiſin made by him, that once before was found, and adiudged to haue diſſeiſed the ſame man of his lands, or tenements. For the which there lyeth a ſpeciall writ, called a writ of *rediſſeiſin*. *old: nat. br. fol. 106. Fitzh. nat. br. fol. 188.* See the new booke of *Entries. verb. Rediſſeiſin.*

*Rediſſeiſina*, is a writ lying for a *rediſſeiſin*. *Reg. orig. fo. 206. 207.*

*Reddicion*, is a iudiciall confeſſion, and acknowledgement that the land or thing in demaünd belongeth to the demaundant, or at the leaſt, not to himſelfe. *a. 34. & 35. H. 8. ca. 24. Perkins Dorer. 379. 380.*

*Redutours*, be thoſe that buy cloth, which they know to be ſtollen, and turne it into ſome other forme or faſhion. *Britton. cap. 29. Cromptons Vicount, fol. 193. a.*

*Reentry*, cometh of the French (*renir*). i. *rurſus intrare*, and ſignifieth in our common law, the reſuming, or taking againe of poſſeſſion, which we had earlt forgone. For example, if I make a leaſe, of land, or tenement, I doe thereby forgoe the poſſeſſion, and if I doe condition with the Leafee, that for non payment of the rent at the day it ſhalbe lawfull for me to reenter, this

is as much as if I conditioned to take againe the lands &c. into mine owne hands, and to recover the possession by mine owne fact without the assistance of Iudge or proces.

*Reere countie.* See *Rier Countie*.

*Reextent*, is a second extent made vpon lands, or tenements, vpon complaint made, that the former extent was partially performed. *Brooke, titulo. Extent fol. 313.*

*Regard* (*regardum*) is borrowed of the French (*Regard*) or *Regardure* .i. *aspectus, conspectus, respectus*.) and though it haue a generall signification of any care or diligence: yet it hath also a speciall acceptance, and therein is vsed onely in maters of the Forest: and there two waies: one for the office of the Regarder, the other for the compasse of ground belonging to the Regarders office or charge. *Cromptons Iurisd. fol. 175. 199.* Touching the former, thus saith *M. Manwood, parte pri.* of his Forest lawes. pag. 198. The Eire, generall sessions of the Forest, or Iustices seat, is to be houlden, and kepte euery third yeare: and of necessity before that any such sessions or Iustices seate can be houlden, the Regarders of the Forest must make their *Regard*. And this making of the *Regard*

must be done by the kings writ. And the *Regard* is, (as he afterward there saith) to goe through the whole Forest, and euery Bayliwicke of the same, to see and enquire of the trespasses of the Forest: which he compriseth in these 4. viz. *ad videndum, ad inquirendum, ad imbreuiandum, ad certificandum*. Of euery of which braunches you may reade there his exposition.

Touching the second signification, the compas of the Regarders charge is the whole Forest, that is, all that ground, which is parcell of the Forest. For there may be woods within the limits of the Forest, that be no parcell thereof, and those be without the *Regard*, as the same author plainly declareth, *parte pri. pag. 194.* and againe *parte 2. cap. 7. m. 4.* where he sheweth the difference between these words: (*Infra Regardum*) or (*Rewardum*) & *Infra Forestam*.

*Regarder* (*Regardator*) cometh of the French (*Regardeur*) .i. *spectator*) & signifieth an officer of the Forest. *Cromptons Iurisd. fol. 153.* where it is thus defined. A *Regarder* is an officer of the Forest, appointed to suruew all other officers. He saith there also, that this officer was ordeined in the beginning of



King Henry the seconds daies. *M. Mamwood* in his first part of *Forest lawes*. pag. 188. thus defineth him. A Regarder is an officer of the Kings Forest, that is sworne to make the Regard of the Forest, as the same hath been vsed to be made in auncient time. And also to view and inquire of all offences of the Forest, as well of vert as of venison, and of all concealements of any offences or defaults of the Foresters, and of all other officers of the Kings Forest, concerning the execution of their offices. He saith there also, that a Regarder may be made either by the Kings letters patents, or by any one of the Kings Iustices of the Forest, at his discretion in the generall Eyre, or at such time, as the Regard is to be made, by vertue of the Kings writ, directed to the Shyreene of the Countie for that purpose. The forme of which writ he there setteth downe.

After that pag. 192. he setteth downe his oath in these words. You shall truly serue our sonereigne Lord the King in the office of a Regarder in the Forest of *Waltham*. You shall make the Regard of the same in such maner, as the same hath beene accustomed to be made. You shall raunge through the whole forest, and through euery

Bailiwicke of the same, as the Foresters there shall lead you to view the said forest. And if the foresters will not, or doe not know how to lead you, to make the regard or raunge of the Forest, or that they will conceale from you any thing that is forfeited to the King, you your selues shall not let for any thing: but you shall see the same forfeiture, and cause the same to be inrolled in your rolle. You shall inquire of all wastes, pourpures, and Asserts of the Forest, and also of concealements of any offence, or trespasse in the Forest. & all these things you shall to the vitermost of your power doe, so helpe you God. Then you may reade sarder the particulars of his office. *eadem*, pag. 195. And pag. 207. he saith that their presentments must be vpon their view, and so recorded, and that the Regarders of themselves haue power to heare and determine the fine, or amerciamient for expeditating of dogs. See *Regard*.

*Regio assensu*, is a writ whereby the King giueth his Royall assent to the election of a Bishop or Abbot. *Register origin*. fol. 294. b.

*Registrie* (*Registrum*) commeth of the French (*Registre*. i. *liber*, *librarium*, *codex ratiocinarius*, *ephemeris*, *commentarius*) it signifieth

fieth with vs the office, or books, or rolls, wherein are recorded the proceedings of the Chauncerie, or any spirituall courte. The writer, and keeper whereof is called the Register, in latine, *Registrarius*. Register is also the name of a booke, wherein are expressed all the formes of writs vsed at the common lawe, called the Register of the Chauncerie. *anno 13. Ed. prim. cap. 24.* Some say it is tearmed *Registrum quasi Regeſtum. Prateus.*

*Regrator (regrator) cometh of the French (regratter i. desquamare.) Regratter quelque vielle robe & la faire neuſue* is to ſcoure or ſurbuſh an old garment and to make it new againe. Also (*regratteur*) ſignifieth as much as (*Mango*) in Latine: which kind of men ſold children, and to ſel them the beter, *mentiendi coloris artem optimè callebant. Martialis & Plinius.* This word in our common lawe, did aunciently ſignifie ſuch as bought by the great, and ſold by retayle. *anno 27. Ed. 3. ſtat. prim. cā. 3.* but now it ſignifieth him, that buyeth and ſelleth any wares, or victuals in the ſame market, or faire, or within 5. miles thereof. *anno 5. Ed. 6. cap. 14. anno 5. Eliz. cap. 12. anno 13. Eliz. cap. 25. See Fore-*

*ſtallers and Engroſſers.*

*Rehabere facias ſeiſinam quando Vice comes liberavit ſeiſinam de maiore parte, quam deberet,* is a writ Iudiciall. *Regiſt. Iudicial, fol. 13. 51.* There is another writ of this name and nature. *eadem fol. 54.*

*Reioynder (reiuñctio)* ſignifieth in our common lawe, as much as *Duplicatio* with the Ciuilians, that is, an exception to a replication. For the firſt answer of the Defendant to the Plaintiffes bill, is called an exception: the plaintiffes answer to that, is called a Replication; and the Defendants to that, Duplication in the ciuill lawe, and a Reioynder with vs; eſpecially in Chauncerie. *West. parte 2. ſymb. titula Chauncerie. ſect. 56.* where he citeth theſe words out of *Spigelinus. Eſt autem reiuñctio ſeu duplicatio, vel allegatio, qua datur reo ad infirmandum replicationē aſtoris, & confirmandum exceptionem Rei.*

*Relation (relatio) idem quod fictio iuris,* to make a nullitie of a thing from the beginning, (for a certaine intent) which had eſſence, *Cooke lib. 3. Butler & Baker. fol. 28. b.* which in playner termes may be thus expounded. Relation is a fiction of the lawe, whereby ſomething is (for a ſpeciall purpoſe) imagined neuer to haue bene, which in



truth was. Reade the rest.

*Release* (*relaxatio*) commeth of the French *Relasche*. i. *cessatio*, *relaxatio*, *laxamentum*) and in our common lawe is thus defined: A Release is an Instrument whereby estates, rights, titles, entries, actions, and other things be some time extinguished, some time transferred, sometime abridged, and sometime enlarged. *West. parte prim. symbol. lib. 2. sect. 509.* And there is a Release in fact, and a release in lawe. *Perkins Graunts 71.* A release in fact seemeth to be that, which the very words expressly declare. A Release in lawe is that, which doth acquite by way of consequent, or intendment of lawe. An example whereof you haue in *Perkins ubi supra*. Of these, how they be auailable, & how not, see *Litleton at large. li. 3. cap. 8. fol. 94.* of diuers sortes of these Releases see the newe booke of Entries. *verbo Release.*

*Reliefe* (*relevium*) commeth of the French (*relever*. i. *relevare*) and signifieth in our common lawe, a certaine summe of money, that the tenent holding by knights seruice, grand sergeantie, or other tenure, for the which homage or regall seruice is due, or by soccage, for the which no homage is due, and being at full age at the death of

his aunceltour, doth pay vnto his Lord at his entrance. *Bracton lib. 2. cap. 36.* giueth a reason why it is called a Reliefe. *viz. quia hereditas, quae iacens fuit per antecessoris decessum, relevatur in manus heredum, & propter factam relevationem, facienda erit ab herede quadam praestatio, quae dicitur Relevium.* Of this you may read *Britton. cap. 69.* in a maner to the same effect. Of this also speaketh the *Grand Customary of Normandie, cap. 34.* to this effect: It is to be knowne, that the Lord of the fee ought to haue reliefe of the lands, which be held of him by homage, when those die, of whom he had homage. And that this is not onely proper to vs in *Eng. or Normandie*, appeareth by *Hotoman* in his Commentaries, *de verbis feud. verbo Relevium*, who there defineth it thus: *Relevium est honorarium, quod novus vasallus patrono introitus causa largitur, quasi morte vasalli alterius, vel alio quo casu feudum ceciderit: quod iam a novo subleuetur:* and farther speaketh of it, that which is worth the reading, and containeth great knowledge of antiquitie. See the like definition in *Marante singularibus. verbo Relevium.* For the quantitie of this reliefe, see the *Great charter, cap. 2.* in these words: If any of our Earles or Barons, or any other

our tenents, which hold of vs in chiefe by knights seruice, dye, and at the time of his death his heire is of full age, and oweth to vs reliefe, he shall haue inheritance by the old Reliefe: that is to say, the heire, or heires of an Earle for one whole Earldome one hundred pound: the heire or heires of a Baron for one whole Baronie, one hundred merkes: the heire or heires of a Knight, for one whole Knights fee, one hundred shillings at the most. And he that hath lesse, shall giue lesse, according to the old custome of the fees. Reade also, *Glanuile lib. 9. cap. 4. fol. 68.* who saith, that in his dayes the Reliefe of a Baronie was not certaine. The heire in francke soccage, when he commeth to his full age, after the death of his auncester, shall double the rent that he was wont to pay to the Lord, and that shall be in place of reliefe. *old nat. br. fol. 94.* Somewhat more hereof you may reade in *anno 28. Ed. prim. statut. prim. and Kitchin fol. 145. ca. Reliefe.* and *Glanuile lib. 7. cap 9.* The Feudists also write of this at large. Among others *Vincencius de Franchis descif. 121.* saith, that *Relevii solutio est quedam extrinseca prestatio a consuetudine introducta, que non inest feudo, quodque soluitur pro confirmatione, seu re-*

*nominatione investitura & possessionis.* See *Heriot.* This *Leo* the Emperour *Novella 13.* calleth it *denegationem*. By the auncienter ciuile lawe it is termed (*introitus*) *Lpenult. §. Alumno. & de legatis. Skene de verb. signif.* saith, that Reliefe is a French word from the Latine *relevare*, which is to relecue or take vp that which is falen. For it is giuen by the tenent, or vassall being of perfect age, after the expiring of the wardship to his Lord, of whome he holds his land by Knights seruice; that is, by ward and reliefe; and by payment thereof he relieues, and (as it were) raiseth vp againe his lands, after they were fallen downe into his superiours hands by reason of wardship, &c.

*Remainder (remanencia)* signifieth in our common law, a power or hope to inioy lands, tenements, or rents after the estate of another expired. For example, a man may let land to one for terme of his life, and the Remainder to another for terme of his life. *Littleton cap. Attornment: fol. 113.* And this Remainder may be either for a certaine terme, or in fee simple, or fee taile, as might be proued by many places in the law writers. But in stead of the rest, take *Brooke, titulo Done & Remainder, fol. 245. Glanville. lib. 7. ca. pri.* in fine hath these words:

*Notan-*



*Notandum quod nec Episcopus, nec Abbas, quia eorum Baronie sunt de elemosina Domini Regis, & antecessorum eius, non possunt de Dominici suis aliquam partem dare ad remanentiam sine assensu & confirmatione Domini Regis.* Where it appeareth that *Dare ad remanentiam* is to giue away for euer. To the same effect doth he vse it *cap. 9. eiusdem libri* in these words, speaking of the Lords of maners during the minority of their wards. *Nihil tamen de hereditate, de iure alienare possunt ad remanentiam.* In the like sort doth *Bracton* vse it. *lib. 2. cap. 23. in fine:* and also *lib. 4. tracta. 2. cap. 4. nu. 4.* See the new booke of *Entries. verbo Remainder.*

*Remembrancers of the Exchequer (Rememoratores)* be three officers, or clerks, one called the Kings Remembrancer. *anno 35. El. cap. 5.* The other the Lord Treasurers Remembrancer, vpon whose charge it seemeth to lye, that they put all Iustices of that court, as the Lord Treasurer and the rest, in remembrance of such things, as are to be called on, and delt in for the Princes behoofe. The third is called the Remembrancer of the first fruites. Of these you may read something. *anno 5. Rich. 2. stat. pri: cap. 14. & 15.* to the effect aboue specified. These *anno 37. Ed. 3. cap. 4.* be called clerks of

the Remembrance. It seemeth that the name of this officer is borrowed from the Ciuilians, who haue their (*Memoriales*) qui sunt notarii Cancellarie in regno subiecti officio. *Quasioris. Lucas de penna. C. lib. 10. tit. 12. nu. 7.* The kings Remembrancer entred in his office all recognicances taken before the Barons for any the Kings debts, for apperances, or for obseruing of orders. He taketh al bonds for any of the kings debts, or for apparance, or for obseruing of orders, and maketh proces vpon them for the breach of them. He writeth proces against the collectors of customes, subsidies and fiue teenthes, for their accompts. All informations vpon penall statutes are entred in his office. And all maters vp on English bills in the Exchequer chamber are remaining in his office. He maketh the bills of compositions vpon penall lawes: taketh the statments of debts: maketh a record of a certificate deliuered vnto him by the clerk of the Starre-chamber of the fines there set, and sendeth them to the pipe. He hath deliuered vnto his office all maner of indentures, fines, and other euidences whatsoeuer, that concerne the assuring of any lands to the Crowne. He yearly in *crastino animarum* readeth in open court the statute for the elections

elections of Shyreuees, and giueth those that chuse them their oath: he readeth in open court the oath of all the officers of the court, when they are admitted.

The treasurers remembrancer maketh proces against all Shyreuees, escheators, receiuers, and bayliffs for their accompts. He maketh proces of (*fieri facias*) and extent for any debts due to the King, either in the pipe, or with the auditors. He maketh proces for all such reuenew as is due to the King by reason of his tenures. He maketh a record, whereby it appeareth whether Shyreuees and other accountants pay their profers dew at Easter and Michelmas. He maketh another record, whereby it appeareth, whether Shyreuees and other accountants keepe their daies of prefixion. All extreats of fines, Issues, and amerciaments set in any courts of *Westminster*, or at the assises, or sessions, are certified into his office, and are by him deliuered to the clerk of extreats to write proces vpon them. He hath also brought into his office all the accompts of customers, controllers, and other accountants to make thereof an entry of record.

The Remembrancer of the first fruites, taketh all compo-  
 11

ons for first fruites and tenthes: and maketh proces against such as pay not the same.

*Remittere*, commeth of the French (*remettre* .i. *restituere*, *reponere*) and signifieth in our common law, a restitution of one that hath two titles to lands or tenements, and is seised of them by his later title, vnto his title that is more auncient, in case where the later is defectiue. *Fitz. nat. br. fol. 149. F. Dyer fol. 68. nu. 22.* This in what case it may be graunted to any man, see in *Brooke, titulo Remitter*: and the terms of law. The *Doctor* and *Student* of this mater hath these words: if land discend to him that hath right to that land before, he shalbe remitted to his beter title, if he will. *capite nono. fol. 19. b.* See the new booke of *Entries: verbo Remitter*.

*Render*, commeth of the French (*Rendre* .i. *reddere*, *retribuere*, *restituere*) and signifieth in our common lawe, the selfe same thing. For example, this word is vsed in leuying of a fine. For a fine is either single, by which nothing is graunted, or rendred backe againe by the Cognizee, to the Cognizour: or double, which containeth a graunt, or render backe againe of some rent, common,



or other thing, out of the land it selfe to the Cognizor, &c. *West. parte. 2. symbol. titulo Fines. sect. 21. & 30. F.* Also there be certaine things in a maner that lie in *prender*, that is, which may be taken by the Lord, or his officer, when they chaunce, without any offer made by the tenant, as the ward of the body of the heire, and of the land, escheats, &c. and certaine that lie in *Render*, that is, must be deliuered or answered by the Tenant, as rents, relieves, heriots, and other seruices. *Idem, eodem. sect. 126. C.* Also some seruice consisteth in seiface, some in *Render*. *Perkins Reformation. s. 696.*

*Rent (Reditus)* commeth of the French (*Rent. i. uertigal, pensitatio annua*) and signifieth with vs, a summe of mony or other consideration issuing yearly out of land or tenements. *Plowden, casu Browning. fol. 132. b. & fol. 138. a. 141. b.* There be three sorts of rents obserued by our common Lawyrs: that is, Rent seruice, Rent charge, and Rent seck. Rent seruice is, where a man houldeth his land of his Lord by fealty, and certaine rent, or by fealty, seruice, and certaine rent. *Littleton lib. 2. ca. 12. fol. 44.* or that which a man, making a lease to another for terme of yeares, reserueth yearly to be paid him for the

same. Termes of lawe. *verbo Rents*, who giueth this reason thereof, because it is in his libertie, whether he will distraine, or bring an action of debt. A Rent charge is that, which a man making ouer an estate of his land, or tenements to another, by deede indented either in in fee, or fee tayle, or lease for terme of life, reserueth to himselfe by the said indenture a summe of money yearly to be paid vnto him with clause of distresse, or to him and his heires. See *Littleton, ubi supra*. A Rent seck, otherwise a drie rent, is that, which a man making ouer an estate of his land or tenement, by deede indented, reserueth yeerely to be paid him without clause of distresse mentioned in the Indenture. *Littleton ubi supra.* and termes of the lawe. *verbo Rents*. See the newe expositour of lawe Termes: See *Plowden, casu Browning. fol. 132. b.* See the differences betweene a rent, and an annuities. *Doctor and Student. cap. 30. dialo. primo.*

*Reparatione facienda*, is a writ, which lieth in diuers cases, whereof one is, where three be tenants in common, or ioynt tenants, or *pro Indiviso*, of a mille, or house which is fallen into decay, and the one being willing to repaire it, the other two will

will not. In this case, the party willing shall haue this writ against the other two. *Fitzh. nat. br. f. 127.* where read at large the form & many vses of this writ, as also in the *Regi. orig. fol. 153. b.*

*Repeale*, commeth of the French (*Rappel. i. Revocatio*) and signifieth in our common lawe euen the same; as the *Repeale* of a statute, *Rastall titulo Repeale. Brooke* vsith *Repellance* in this signification, *titulo Repellance.*

*Repleader* (*Replacitare*) is to plead againe, that which was once pleaded before. *Rastall, titulo Repleader.* See the newe booke of *Entries, verbo Repleder.*

*Replegiare.* See *Replevie.* See *Second deliuerance.*

*Replevie* (*Plenina*) is the bringing of the writ called *Replegiarificas*, by him that hath his catel or other goods distreined by another for any cause, and putting in suerty to the Shyreue, that vpon the deliury of the thing distreined, he will persiew the action against him that distreined. *Termes of lawe.* See *Replegiare.* It is vsed also for the bayling of a man. *pl. cor. fol. 72. 73. 74. & West. pri. cap. 11. & cap. 15. anno 3. Ed. 1.*

*Replegiare de aueris*, is a writ brought by one, whose catell be distreined or put in pound vpon any cause by another, vpon suerty giuen to the Shyreue

to persiew the action in lawe. *anno 7. H. 8. cap. 4. Fitzh. nat. br. fol. 68.* See the Register *originall*, of diuers sorts of this writ called *Replegiare.* in the table, *verbo eodem.* See also the Register *Iudiciall, fol. 58. & 70.* see also the newe boke of *Entries. verbo Replevin.* See *Dyer. fol. 173. nu. 14.*

*Replevis* (*Replegiare*) is to let one to mainprise vpon suretie. *anno 3. Ed. 1. cap. 11.*

*Replication* (*replicatio*) is an exception of the second degree made by the plantife vpon the first answer of the Defendant, *West. parte 2. symbol. titulo Chaucerie. sect. 55. & Westm. 2. anno 13. Ed. pri. cap. 36.* This is borrowed from the Ciuilians, *De replicationibus, lib. 4. Institutio. titulo. 14.*

*Report* (*Reportus*) is in our common lawe a relation, or repetition of a case debated, or argued, which is sometime made to the court, vpon reference from the court to the Reporter, sometime to the world voluntarily, as *Ploydens reports*, & such like.

*Reposicion of the Forest*, was an act whereby certaine forest grounds being made purlieu vpon view, were by a second view laide to the Forest againe. *Manwood, parte pri. pag. 178.*

*Reprisels* (*Reprisalia*) are all one in the common and Ciuill law. *Reprisalia est potestas pignoriandi contra quemlibet de terra debi-*



*toris data creditori pro iniuriis & damnis acceptis. Vocabularius vtriusq; iuris.* This among the auncient Romans was called (*Clarigatio*) of the verb (*Clarigo. i. res clarè repeto*) It is called in the statute anno 27. Ed. 3. stat. 3. cap. 17. *lawe of Marque*, of the German word *March. i. terminus limes*. And the reason may be, because one destitute of Iustice in another territory, redresseth himselfe by the goods belonging to men of that territory, taken within his owne bounds.

*Requests (Supplicum libelli, Curia Requisitionum)* is a Court of of the same nature with the Chauncerie, redressing by equitie the wrongs that poore men doe suffer at their hand, whose might they are not able to withstand either in lawe or otherwise. It tooke beginning as some men thinke, by commission from King Henry the 8. before which time the Masters of Requests had no warrant of ordinary Iurisdiction, but travailed betweene the Prince and petitioners, by direction from the mouth of the King. *Guins preface to his readings*, But see *Court of Requests*.

*Resceyt (Receptio)* seemeth to be an admission of a third person to pleade his right in a cause formerly commenced,

betweene other two. See the newe booke of *Entries. verbo Resceit. v. Aude prier*. The Ciuilians call this *admissionem tertii pro suo interesse*. Of this you haue one example in the *Termes of lawe*, viz. if Tenent for terme of life, or tenent for terme of yeares bring an action: he in the reuer-sion commeth in, and prayeth to be receiued to defend the land, and to plead with the Demandant. Many more you may haue in *Brooke, titulo, Resceite. fol. 205. See Perkins Doner. 448.*

Resceit is also applied to an admittance of plee, though the controuersie be but betweene two onely. *Brooke estoppel. in many places.*

*Resceyt of homage*, is a relative to doing homage, for as the Tenent, who oweth homage, doth it at his admission to the land: so the Lord receiueith it. *Kitchin fol. 148. See Homage.*

*Rescous (Rescissus)* commeth of the French (*Rescours se Rescours du danger. i. asserere se ab iniuria*) It signifieth in our common law a resistance against a lawfull authoritie: as for example, if a Baylife, or other officer vpon a writ doe arrest a man, and another (one or more) by violence doe take him away, or procure his escape: this act is called, a *Rescus Cassanau* in his booke *de consuetud. Burg.* hath the

the same word coupled with (*resistentia*) fol. 294. whereby it appeareth, that other nations do vse this word in the same signification that we doe, or the very like. It is also vied for a writ, which lyeth for this act called in our lawyers latine (*Breue de rescussu*) whereof you may see both the forme and vse in *Fitzb. nat. br. fol. 101.* and the *register original: fol. 125.* See the new booke of *Entries. verbo rescous.* This *rescous* in some cases is treason, and in some felony. *Crompton. Iustice fol. 54. b.*

*Refeifer* (*refeifire*) is a taking againe of lands into the Kings hands, whereof a generall liue-ry, or *ouster le main* was formerly misfued by any person or persons, and not according to forme and order of law. Of this see *Stawf. praroga : 26.* where it is handled at large. See *resumption.*

*Resiance* (*resiantia*) seemeth to come of the French (*rasseoir*, see *Rasseoir .i. residere*) and signifieth a mans aboad or continuance in a place. *Old nat. br. fo. 85.* whence also cometh the participle (*resiant*) that is continually dwelling, or abiding in a place. *Kitchin, fol. 33.* It is all one in truth with Residence, but that custome of speech tyeth that onely to persons ecclesiasticall.

*Reseruatiō*, signifieth that rent or seruice which the graunter in

any graunt tyeth the graunttee to performe vnto him, or them, or the Lord *Paramonte.* *Perkins reservations: per totum.*

*Residence* (*residentia*) commeth of the Latine (*residere*) and is peculiarly vied both in the Canon and Common lawe, for the continuance or abode of a Parson or Vicar vpon his benefice. The default whereof (except the partie be qualified, and dispenced with) is the losse of tenne pounds for euery moneth, *anno 28. Henr. 8. cap. 13.*

*Resignation* (*resignatio*) is vied particularly for the giuing vp of a Benefice into the hands of the Ordinarie, otherwise called of the Canonists (*renunciatio*.) And though it signifie all one in nature with the word (*Surrender*) yet it is by vse more restrained to the yeclding vp of a spirituall liuing, into the hands of the Ordinarie, and *Surrender* to the giuing vp of temporall lands into the handes of the Lord. And a resignation may now be made into the hands of the King, as well as of the Diocesan, because he hath *supremam auctoritatem Ecclesiasticam*, as the Pope had in time past. *Plowden. casu Grendon. fol. 498. a.*

*Resort*, is a word vied properly in a writ of ayle, or conse-



nage, as discent is in a writ of right. *Ingham.*

*Respectu computi Vice-comitis habendo*, is a writ for the respiting of a Shyreuees accompt vpon iust occasion, directed to the Treasurer and Barons of the Exchequer. *Register fol. 139 & 279.*

*Respight of homage*, (*respectus homagii*) is the forbearing of homage, which ought first of all to be performed by the tenant, that holdeth by homage. Which respight may be occasioned vpon diuers good reasons: but it hath the most frequent vse in such as hold by Knights seruice in capite: who because the Prince cannot be at leasure to take their homage, do pay into the Exchequer, at certaine times in the yeare, some small summe of money to be respighted, vntill the Prince may be at leasure to take it in person.

*Responsions* (*responsiones*) seeme to be a word vsed properly and especially by the knights of *S. Iohn of Ierusalem*, for certaine accompts made vnto them by such as occupied their landes or stockes. *anno 32. H. 8. cap. 24.*

*Responsalis*, is he that cometh for another at the day assigned for his appearance in Court, *Bratton. Fleta* seemeth to make a difference betweene

*aturnatum, effoniatorem & responsalem*, lib. 6. cap. 11. §. *Officium*: as if *effoniator* came onely to alledge the cause of the parties absence, be he the demandant or tenant, and *responsalis* came for the tenant not onely to excuse his absence, but also to signifie what triall he meant to vndergoe, viz. the combat or the countrie. lib. 6. cap. 11. §. *Si autem*. A man in auncient time could not appoint an Atturney for him, without warrant from the king. *Fleta, eodem cap. 13. in fine.* See *Atturney*. This word is vsed in the Canon lawe, *Et significat procuratorem vel eum qui absentem excusat.* cap. *Cum olim* propter. *extra. de rescript.*

*Restitution* (*restitutio*) is a yeelding vp againe of any thing unlawfully taken from another. It is vsed in the common law, most notoriously for the setting him in possession of lands or tenements, that hath bene unlawfully disseised of them, which when it is to be done, and when not, see *Cromptons Iustice of peace.* fol. 144. b. & c. vsque 149.

*Restitutioe extracta ab Ecclesia*, is a writ to restore a man to the Church, which he had recovered for his sanctuarie being suspected of felonie. *Register ori.* fol. 69. a.

*Restitutioe temporalium*, is a writ that lyeth in case, where a

man being elected, and confirmed Bishop of any Diocesse, and hath the Princes royall assent thereunto, for the recovery of the temporalities, or Baronie of the said Bishopricke with the appurtenances. And it is directed from the King to the Escheatour of the Countie, the forme whereof you haue in the *Regist. origin. fol. 294.* and in *Fitz. n. it. br. fol. 169.* Where you may read also, that it lyeth for those Abbots and Priors newly elected and confirmed, that were of the kings foundation.

*Resummons* (*resummonitio*) is compounded twice, that is, of *re, sub,* and *Monea*: and signifieth a second summons and calling of a man to answer an action, where the first summons is defeated by any occasion, as the death of the partie, or such like. *Brook tit. See Resummons. fol. 214.* See of these foure sorts, according to the foure diuers cases in the Table of the *Register Iudiciall. fol. 1.* See also the new booke of *Entries, verbo. Reattachment, & Resummons.*

*Resumption* (*resumptio*) is particularly vsed for the taking again into the Kings hands, such land or tenements, as before vpon false suggestion, or other error, he had deliuered to the heire, or graunted by letters patents to any man. *Brooke, titulo Repel-*

*lance, & Resumption. fol. 298.* Thus it is applyed, *anno 31. H. 6. cap. 7. See Reseiser.*

*Retainer*, commeth of the French (*retenir. i. detinere, retinere*) It signifieth in the comon law, a seruant not meniall nor familiar, that is not continually dwelling in the house of his Lord or Master, but onely vsing, or bearing his name, or livery. This livery was wont to consist of hats (otherwise hoods) badges, and other suits of one garment by the yeare. *anno pri. R. 2. cap. 7.* These were taken by great Lords, many times vpon pourpose of maintenance, and quarels, and therefore they haue beene iustly, for the better freedome of law, forbidden by many statutes: as namely by *anno pri. R. 2. cap. 7.* vpon paine of imprisonment, and greuous forfeiture to the King: and againe *anno 16. eiusd. cap. 4. & anno 20. eiusdem, cap. 1. & 2. and anno pri. H. 4. cap. 7.* by the which the Lords offending herein should make ransome at the Kings will, and any Knight or Esquire hereof duly attainted, should loose his said Livery, and forfeit his fee for euer; and any yeoman wearing the Liuey of the King, or other Lord, should be imprisoned, and make ransome at the Kings will, onely some fewe excepted in the said statute: which statute



is farther confirmed, and explained *anno 2. H. 4. cap. 21. & an. 7. eiusd. cap. 14. & anno 13. eiusd. cap. 3. & anno 8. H. 6. ca. 4.* And yet this offence was so deeply rooted, that Edward the fourth was driven to confirme the former statutes, and farther to extend the meaning of them, as appeareth by the statute made *anno 8. Ed. 4. cap. 2.* adding an especiall paine of five pounds to euery man that giueth such Liue-ry, and as much to euery one so retained, either by writing, oath, or promise, for euery moneth. Yet is not this fault so well looked vnto, but that there is need of more pregnant lawes for the redresse thereof, or at the least beter execution of those, that be already made. These be by the Feudists called (*affidati*). *Sic omni dicuntur, qui in alicuius fidem & tutelam recepti sunt. Neapol. constitu. li. 3. titulo 7.* And as our retainers are here forbidden: so are those (*affidati*) in other countries.

*Retraxit*, is an exception against one that formerly commenced an action, and withdrew it, or was non-suit before triall. *Brooke. titulo . Departure inde spight, & Retraxit. fol. 216.* See also the new booke of Entries: *verbo Deperter & verbo retraxit.*

*Returne* (*returna*) cometh of the French (*retour. i. reditio, reuer-*

*so, recursus*) and in our common law, hath two particuler applications, as namely the return of a writ by Shyreuees, and Bayliffs, which is nothing but a certificate made to the Court, whereunto the writ directeth him, of that which he hath done, touching the seruing of the same writ. And this among the Civilians is called *Certificatorium*. Of returnes in this signification, speake the statutes of *Westm. 2. cap. 39. anno 13. Ed. prim.* and *Tractatus contra Vice-comites & Clericos*, with diuers other, collected by *Rastal, titulo Returne of Shyreuees*. So is the returne of an office, *Stannf. prarog. fol. 70.* a certificate into the court, of that which is done by vertue of his office: See the *Statutes of dayes in banke. anno 51. H. 3. & anno 32. H. 8. cap. 21.* And in this signification Hilary terme is said to haue 4. returnes. *viz. Octabis Hilarii, Quindena Hilarii, crastino Purificationis, Octabis Purificationis:* and Easter terme to haue 5. returnes, *viz. Quindena pasche, Tres pasche, mense pasche, Quinque pasche, & crastino Ascensionis.* And Trinity terme 4. returnes. *i. Crastino Trinitatis, Octabis Trinitatis, Quindena Trinitatis, Tres Trinitatis.* And Michaelmas Terme 8. returnes. *sc. Octabis Michaelis, Quindena Michaelis, Tres Michaelis, Mense Michaelis, Crastino*

*stino animarum, Crastino Martini, Octabis Martini, Quindena Martini.*

The other application of this word is in case of *Repleny*. For if a man distraine catell for rent, &c. And afterward iustifie or avowe his act, that it be found lawfull, the catell before deliue- red vnto him that was distrained vpon security giuen to follow the action, shall now be retur- ned to him, that distrained them. *Brooke, titulo Returne d'auers & hommes. fol. 218.* you shall finde this word often vsed in *Fitzh. nat. br.* as appeareth in the word *Returne* in his table: but in all those places it hath the one or the other of these two significa- tions.

*Returno habendo*, is a writ, which lyeth for him that hath a- uowed a distresse made of catell, and proued his distresse to be lawfully taken for the returne of the catell distrained vnto him, which before were expleiued by the party distrained, vpon suerty giuen to persiew the action. *Terms of law, verbo Repleu.*

*Returnum aueriarum*, is a writ Iudiciall, graunted to one im- pleaded for taking the cattell of another, & vnjust deteining of them *contra vadum & plegios*, and appearing vpon summons is dis- missed without day, by reason that the plaintife maketh de-

fault, and it lyeth for the returne of the cattell vnto the Defen- dant, whereby he was summo- ned, or which were taken for the security of his apparence vp- on the summons. *Register Iudici- all. fol. 4. a.*

*Returnum irreplegiabile*, is a writ iudiciall sent out of the common plees to the Shyreue, for the finall restitution or re- turne of catell to the owner, vn- iustly taken by another as dam- mage seisant, and so found by the Iury before Iustices of Assise in the County. For which see the *Register Iudiciall fo. 27. a. b.*

*Reue*, alias *Greue* (*Præfectus*) is made of *Gerefa* the Saxon word for a gouerner. *Lamb: explica: of Saxon words, verb. Præfectus*, and that by reiecting the first silla- ble, which (he saith) among the Saxons is vsuall. It signifieth in our common law, the Bayliffe of a Fraunchis or maner, and espe- cially in the West parts. Of this you may see *Kitchin. fol. 43.* See *Greue*. See *Shyreue*. See also of this word *M. Verstigan* in his re- stitution of decayed intelli- gence. cap: 10. speaking much to the same effect.

*Renels*, seemeth to be deriued from the French word (*Reueiller. i. excitari, vel expergesieri*) It sig- nifieth with vs sports of daun- sing, masking, comedies, tra- gedies, and such like vsed in



the Kings house, the houses of court or of other great personages. The reason whereof is, because they are most vsed by night, when otherwise men commonly sleepe, and be at rest. In the Kings house there is an officer called the Master of these Reuils, who hath the ordering, and dispositions of these pastimes in the court.

*Renewewe*, is a French word, signifying as much as *Reditio*, *Reuersio*, *Reditus*. It signifieth properly the yearely rent that groweth to euery man from his lands and possessions.

*Reuerſion* (*Reuerſio*) signifieth in the comon lawe, a possibility reſerued to a mans ſelfe and his heires, to haue againe lands or tenements made ouer conditionally vnto others, vpon the defect or fayling of ſuch condition. The difference betweene a Remainder, and a Reuerſion is, that a Remainder is generall, and may be to any man but to him that graunteth, or conueieth the land, &c. for terme of life onely or otherwiſe: a Reuerſion is to himſelfe from whome the conueiance of the land, &c. proceeded, and commonly perpetuall, as to his heires alſo, *Littleton*, fol. 112. *in fine*. See *Cooke lib. 2. Sir. Hugh Cholmeis caſe*, fol. 51. a. And yet a Reuerſion is ſometime confoun-

ded with a remainder. *Cooke lib. 2. Tookers caſe*, fol. 67. b. *Plowden, caſu Hille*, fol. 170. b. what this word Reuerſion in a deede doth carie. See *Littleton lib. 2. ca. 12*.

*Revocation* (*Revocatio*) is the calling backe of a thing granted. Of theſe you haue diuers in the Register originall, as *Revocationem brevis de audiendo & terminando*, fol. 124. *Revocationem preſentationis*, fol. 304 & 305. *Revocationem protectionis*, fol. 23. *Revocationem ſpecialium iuſticiariorum quia*, &c. fol. 205.

*Reviving*, is a word metaphorically applied to rents and actions and signifieth a renewing of them, after they be extinguished: no leſſe then if a man, or other liuing creature ſhould be dead, and reſtored to life. See diuers examples in *Brooke titulo*. *Revivings of rents, actions*, &c. fol. 223.

*Rewardum*. See *Regard*.

*Reweye*. anno. 43. *Elizab. cap. 10*.

*Riz*, is a Saxon word ſignifying as much as *Regnum*, in Latine. *Camd. Britan. pag. 246*.

*Riens paſſe per le fait*, is a forme of an exception taken in ſome caſes to an action. See *Brooke titulo Eſtraunger al fait or Record*.

*Riens dans le gard*, was a challenge to a Iurie, or Enqueſt with-

in London. for that foure sufficient men of liuelyhood to the yearly value of fortie shillings aboute all charges, within the same City, and dwelling and hauing within the same ward, weare not impanelled therein. But it is abrogated by the statute. anno 7. H. 7. cap. 4.

*Rier countie* (*Retrocomitatus*) seemeth to come of the French (*Arriere. i. posterior*) and in the statute. anno 2. Ed. 3. cap. 5 is opposite to the open countie. And by comparison of that statute with *Westm. 2. cap. 38.* it appeareth to be some publique place, which the Shyreue appointeth for the receipt of the kings money after the ende of his Countie. *Fleta* saith that it is *dies crastinus, post comitatum. lib. 2. cap. 67. §. Quia Iusticiarii.*

*Right Rectum.* See *Recto.*

*Ridings*, be the names of the parts or diuisions of *Yorke shire*, being three in number. viz. *West riding*, *East riding*, and *North riding.* *Camd. Britan. pag. 530.* This word is mentioned in the statute, anno 22. H. 8. cap. 5. & 23. H. 8. cap. 18. and *M. West. parte 2. symbol. titulo Inditeiments* saith, that in Inditeiments within that Countie, it is requisite that the towne, and the Riding be expressed. sect. 70. Q.

*Right in the Court.* anno 6. R. 2. stat. 1. cap. 12. See *Rectus in*

*Curia.*

*Ringhead, anno 43. Elizab. cap. 10.*

*Riot* (*Riottum*) commeth of the French (*Rioter. i. rixari.*) It signifieth in our common lawe, the forcible doing of an vnlawfull act, by three or more persons assembled together for that purpose. *Westm. parte. 2. symbol. titulo, Inditeiments. sect. 65. P.* The differences and agreements betweene a Riot, a Rout, and vnlawfull assembly. See in *M. Lamb. Eirenarcha. lib. 2. cap. 5. &c.* See the statute. 1. M. 1. cap. 12. & *Kitchin fol. 19.* who giueth these examples of Riots: the breach of inclosures, or banks or conduits, parks, poulds, houses, barnes, the burning of stacks of corne. *M. Lamberd ubi supra.* vseth these examples: to beate a man, to enter vpon a possession forcibly, See *Route. and vnlawfull assembly.* See also *Cromptons Iustice of peace diuers cases of Riots, &c. fol. 53.* See *Tribings.*

*Ripiers* (*Riparii*) be those that vse to bring fish from the sea coast to the inner parts of the land. *Camd. Britan. pag. 234.* It is a word made of the latine (*Ripa*).

*Rise* (*oriza*) is a kinde of corne growing in *Spaine, Asia,* and *India*, with the which both good foodes and medicines be

*M m m 2* made.



made. whereof if you desire farder knowledge, reade *Gerards herball. lib. 1. cap. 52.* This is mentioned among merchandize to be garbled in the statute. *anno 1. Iaco. cap. 19.*

*Roag (Rogus)* seemeth to come of the French (*Rogue. i. arrogans*) It signifieth with vs an idle sturdie beggar, that wandring from place to place without passport, after he hath beene by Iustices bestowed vpon some certaine place of aboade, or offered to be bestowed, is condemned to be so called. who for the first offence, is called a Roag of the first degree, and punished by whipping, and boring through the grissell of the right eare with a hot yron an inch in compass: & for the second offence, is called a Roag of the second degree, and put to death as a felon, if he be about 18. yearesould. See the statute, *anno 14. Elizab. cap. 5. & 18. eiusdem, cap. 3. & anno 36. cap. 17.* If you will know who be Rogues, and to be punished as Rogues by lawe, Reade *Lamberds Eirenarcha. lib. 4. cap. 4.* See *Rout.*

*Robberie (Robaria)* commeth of the French (*Robbe. i. vestis*) and in our common lawe, a felonious taking away of another mans goods from his person or presence, against his will, putting him in feare, and of

purpose to steale the same goods. *West. parte 2. symbol. titulo Indumentis, sect. 60.* This is sometime called violent theft. *Idem, eodem.* which is felonie for two pence. *Kirchin fol. 26. and 22. lib. Assis. 39.* *Robaria* is a word vsed also in other nations, as appeareth by the annotations vpon *Mathaus de Afflictis, descif. 82. nu. 6. pag. 122.* See *Skene verbo Reif. libro de verbo. significat.* See *Crompt. In iustice of peace. f. 30. b.*

*Robbersmen*, *anno 5. Ed. 3. cap. 14. & anno 7. R. 2. cap. 5. M. Lamb.* interpreteth them to be mighty theeues. *Eirenarch. lib. 2. cap. 6. pag. 190.*

*Rodknights, alias Radknights*, are certaine seruitours, which hould their lands by serving their Lord on horseback. *Bracton lib. 2. cap. 36. nu. 6.* saith of them, *debent equitare cum Domino suo de manerio in manerium. vel cum Domini uxore. Flota. lib. 3. cap. 14. 5. Continetur.*

*Rodde (Pertica)* is otherwise called a pearche, and is a measure of 16. foote and an halfe long, and in *Stafford Shire 20. foote*, to measure land with. See *Pearch.*

*Rose tyle, alias Crest tyle*, is that tyle which is made to lay vpon the rudge of the house. *anno 17. Ed. 4. cap. 4.*

*Rogation weeke (dies rogationum)* is a time well knowne to all,

all, being otherwise called Gangweeke. The reason why it is so termed, is because of the especial deuotion of prayer and fasting, then inioyned by the Church to all men, for a preparatiue to the ioyfull remembrance of Christs glorious ascension, and the descension of the holy Ghost, in the forme of cloven tongues shortly after. And in that respect the solemnization of carnall matrimony is forbidden from the first day of the said weeke, vntill Trinitie Sunday. See *Aduent*.

*Roode of land* (*Roda terra*) is a certaine quantitie of land being the fourth part of an acre. *ann. 5. Eliz. ca. 5.* See *Perch*.

*Roll*, alias *Roule* (*Rotulum*) commeth of the French (*Rouler*. i. *volvere*, *pervolvere*, *rotare*) whence also is the French (*Role* or *Roule*. i. *volumen*, *catalogus*, *Codex*) It signifieth with vs a sheddle of paper, or parchment turned, or wound vp with the hand to the fashion of a pipe. So is it vsed in *Stawnf. ples of the Crowne* fol. 11. The chequer rolle of the kings house, out of the statute *anno 3. H. 7. cap. 13.* which signifieth nothing but the catalogue, wherein the names of the Kings houshold seruants are set downe. And *anno 5. Rich. 2. cap. 14. stat. pri.* there is mention made of the great Rolle of

the Exchequer which seemeth otherwise to be called the pipe. The Routes is also a place destinated by *Ed. 3.* to the the keeping of the Rols, or Records of the Chauncery situate betweene the two Temples in London. *Camd. Britan. pag. 321.* the Master whereof is the second man in Chauncery, and in the absence of the Lord Chaunceler, or Keeper, sitteth as Judge, being commonly called the Master of the Rols. See *Master of the Rols*.

*Romescot*, is compounded of *Rome*, and *Scot*, as you would say, the tribute due to Rome: it is called by *Mathaus Westmonasteriensis, Consuetudo Apostolica, à qua, neque Rex, neque Archiepiscopus, vel Episcopus, Abbas, vel Prior, aut quilibet in regno immunitis erat:* and was first graunted by *Offa* a Saxon King. *Camd. Britan. pag. 306.* See *Peter pence:* and *Roger Houeden parte poster. snorum annalium. fol. 344. a. in Henrico secundo.*

*Roundlet*, is a certaine measure of wine, oyle, &c. containing 18. gallons and a halfe, *anno 1. R. 3. cap. 13.*

*Route* (*Routa*) is a French word signifying a companie, or flocke: as (*une grande route de gents, on de cerfs. i. grex hominum, longa cernorum series.*) It signifieth in our common lawe, an as-



sembly of three persons or more, going on about forcibly to commit an vnlawfull act, but yet doe it not, *Westm. parte 2. sym. titulo Indictments. sect. 65. o. M. Lamberd* thus saith of it: A Route is the same, which the *Germans* yet call *Rot*, meaning a band or great companie of men gathered together, and going about to execute, or executing indeed, any ryot or vnlawfull act: and (saith more) it is said properly of the multitude that assembleth themselves in such disorderly sort, for their common quarels. As if the inhabitants of a towneship doe assemble to pull downe a hedge, or pale, to haue their common, where they ought to haue none, or to beate a man, that hath done them some publike offence or displeasure. But the statute of *18. Ed. 3. stat. prim. cap. unico.* which giueth processe of outlawrie against such as bring routes into the presence of the Iustices, or in affray of the people, and the Statute of *2. Rich. 2. cap. 6.* that speaketh of riding in great routes to make entrie into lands, and to beate others, and to take their wiues, &c. doe seeme to vnderstand it more largely. And it is a route, whether they put their purpose in execution or no: if so be, that they do goe, ride, or moue for-

ward after their meeting. *Broke, titulo Riot. 4. & 5.* So (as it seemeth) a route should be a speciall kind of vnlawfull assembly: and a riot the disorderly fact committed generally by any vnlawfull assembly. Howsoeuer it be, two things are common both to Riot, Route, and vnlawfull assembly: the one, that three persons at the least bee gathered together: for so it is commonly taken at this day, as I haue learned: the other, that they being together, do breed disturbance of the peace, either by signification of speech, shew of armour, turbulent gesture, or actuall and expresse violence: so that either the peaceable sort of men be vnquieted, and feared by the fact, or the lighter sort, and busie bodies emboldened by the example. Thus farre *M. Lamberd* in his *Eirenarcha. lib. 2. cap. 5. &c.* Where you may reade more worth the noting, though too long to be copied out. See *Riot*, and *Vnlawfull assembly*. *Kirchin* giueth the same definition of a Route, fol. 20.

*Rouing of clothes. anno 27. H. 8. cap. 13.*

*Royall assent (regius assensus)* is that approbation which the King giueth to a thing formerly done by others: as to the electiō of a Bishop by Deane and Chap-

Chapter. Which giuen, then he sendeth an especiall writ to some person for the taking of his fealtie. The forme of which writ you may see in *Fitz. nat. br. fol. 170. C.* And also to a bill passed by both the Houses of Parliament. *Cromptons Iuris. fol. 8.* which assent being once giuen, the bill is indoried with these wordes: *Le Roy veult*, i. it pleaseth the King. If he refuse to agree vnto it, then thus: *Le roy aduisera*. i. the King will yet thinke of it. See *Parlament*.

*Royalties* (*regalia vel regalitates*) be the rights of the King. *Inra Regis. Hotoman in verbis feudali: verbo. Regum Feudiste.* And so are they vnderstoode of vs likewise, who otherwise call them the Kings prerogatiue. See *Prerogatiue*. And some of these be such as the King may graunt vnto common persons, some so high, as may not be separated from his owne Crowne *pruatiue* as the Ciuilians terme it, though *cumulatiue* he may. See *Bracton lib. 2. cap. 5.* These be in some sort expressed in the first of *Samuell. cap. 8.* but these igeneralities bee specified more at large by those Lawyers that write of this point. Among whom I especially commend *Mathæum de Afflictis* vpon the title of the *Fends. Que sint regalia.* being the 33. title of the third

booke, as some diuide them, but according to others the 56. of the second booke: where be named in the text 25. specialties of *Royalties*. See also *Hotomans Commentaries in lib. 2. Fendos. cap. 56.*

*Rouge crosse.* See *Herald*.

*Rudge washed Kersey.* i. made of fleece wooll washed onely on the sheepes backe. *anno 35. Eliz. cap. 10.*

## S

*Sables.* See *Furre*.

*Sac* (*sacha vel Sacca*) is a Royalty or priuiledge touching plee, and correction of trespasses of men within a maner. *Rastal, titulo expof: of words:* where he addeth this reason: because (saith he) *Sac* in english is (*Encheson*) in French: as to say, for *sick sack*, *pour quel encheson*. i. for what hurt. That which our common lawyers call (*encheson*) the true French man termeth (*Achoise*. i. *occasionem*) as (*Achoise fort grande, occasio ampla*) or els may *encheson* come of (*Encheoir*. i. *incidere*) which we in english call an *accident*, or *incident*. But all this is farre enough from (*sac*) and from the interpretation thereof, as it is a liberty or priuiledge. *Bracton* hath the word, as *Stawford* noteth out of him, *pl. cor: lib. pri: cap. 23.* but neither of them both doe particularly interpret it. *Bractons* words be these *lib. 3.*



tract. 2. cap. 8. *vel si sit aliquis qui de concessione Domini Regis talem habeat libertatem* (sicut sock & sack, Tolnetum, Team, Infangthefe, & Hursangthefe) qui in iudicio fuerit seiscus de aliquo latrocinio, sicut Hondhabende & Backberend, tales habent regale potestate: & unde qui tales libertates habet, habebunt prisonam suam de talibus, quia possunt tales in Curia sua indicare. Of the which mater he speaketh also in lib. 2. cap. 24. m. 2. & 3. and againe lib. 3. tracta. 2. cap. 35. But in none of these places he giueth any interpretation of the word. Saxon in his description of England defineth Sack to be a forfeiture, as doth Rastall ubi supra. fol. 132. M. Camden in his Britan. pag. 415. speaking of Lincolln. hath these words: *Edwardo Confessore regnante, erant (ex censuali libro loquor) 1070. mansiones hospitale, & duodecim Lageman habentes socam & facam.* To all these adde Bracton, lib. 2. cap. 5. where he writeth thus. *Sunt & alia res quasi sacre, que personam Regis respiciunt, & aliquando transferri non possunt, nisi iusticiariis Domini Regis, sicut visus Franciplegii, placita de vetito nannio, commendatio transgressionis Affisarum, Iudicium latronum, sicut de illis qui habent sock & sack, & huiusmodi omnia, que pertinent ad pacem, & per consequens ad Coronam.* I am informed, that the word (sack)

in the Saxon tongue doth properly signifie so much as (scausa) with the Latines: whence wee in English haue the word (sake) as (for whose sake.) M. Skene de verbor. signifi. verbo, Sacke, writeth thus. In some old books it is called placitum & emenda de transgressionem hominum in Curia nostra. In the lawes of king Edward set forth by M. Lamberd, fol. 132. it is written, (Sacha) Sacha autem est: si quilibet aliquem nominatum de aliquo calumniatus fuerit, & ille negauerit, forisfactura probationis vel negationis, (si euenit) sua erit. Which may be called the amercement payed by him, who denieth that thing, which is proued against him to be true, or affirmeth that thing, the contrarie whereof is true. Thus farre M. Skene. Fleta of this hath these words: Sake significat acquietantiam de seicta ad Comitatum, & Hundredum. lib. pri. cap. 47. s. Sake. But by all those I find not any reason of the word; that is, why this liberty should be so called, and therefore I must leaue it to better Antiquaries or Linguists. see Rog. H. part. poster. suorum annaliu. f. 345. Saccus cum brochia, seemeth to be a seruice of finding a sacke and a broch to the King by vertue of a tenure, for the yle of his armie. Bract. lib. 2. c. 16. n. 6. Sacke of wooll, (saccus lane) is a quan-

a quantitie of wooll, that containeth 26. stone, and a stone, fourteene pounds, anno 14. Ed. 3. stat. 1. cap. 21. See *Sarplar*.

*Sacramento recipiendo, quod vidua Regis se non maritabit sine licentia Regis*, is a writ or commission to one for the taking of an oath of the Kings widowe, that she shall not marie without the Kings licence. Register original, fol. 298. a.

*Safe conduct*. See *Saulf conduct*.

*Salus*, is a coine of gold stamped by king Henry the sixth in Fraunce, which onely coine, with another of *Blancs* of eight pence a peice, was current in those places of Fraunce, where King Henry was obeyed. *Stowes Annals*, pag. 586.

*Safe pledge* (*Salvus plegius*) is a suretie giuen for a mans appearance against a day assigned, *Bracton lib. 4. cap. 2. nu. 2.* where it is also called *certus plegius*.

*Sailing ware*. anno prim. R. 3. cap. 8.

*Sak*. See *Sac*.

*Sakebere*, in *Britton cap. 15. & 29.* seemeth to be he that is robbed, or by theft deprived of his goods: with whome *Bracton* also agreeth, *lib. 3. tracta. 2. cap. 32. nu. 2.* in these words: *Furtum verò manifestum est, ubi latro deprehensus sit scissus de aliquo la-*

*trocmio sc. Hondhabende, & Backberend, & infecutus fuerit per aliquem, cuius res illa fuerit. qui dicitur Sacaburthe, &c. or Saibaler*, as *Starnford* calleth it, *pl. cor. lib. pri. cap. 21.* The interpretation of this word I find not. Onely *M. Skene de verb. interpretatione. verbo. (Sacreborgh)* thinketh it should rather be written, *Sickerborgh*, of (*Sicker. i. Securus*) and (*Borgh. i. plegius*) signifying a sure cautioner or suretie which one findeth to another for theft, or slaughter: whereof he offereth to accuse him judicially. For in this case it behoueth the persiewer to oblige, or binde himselfe into the hands of the officer, or before a Iudge competent with *Sicker borgh*, or sure caution, that he will persiew in forme of lawe. And by this meanes it may be, that the accuser was wont with vs to be called *Sakbere* of a circumstance, because in this case he was surely bound to persiew. *Syker* is also an old english word, signifying as much as sure, secure, or certaine, and see *Borowe*.

*Salter*, is a headpeece. anno 4. & 5. *Phil. & Mar.* it seemeth to come from the French (*Salut. i. Salus*).

*Salmonfense*, seemeth to be the young fry of *Salmon*, *quasi salmonissus*. anno 13. R. 3. stat. pri. cap. 19.



*Salua Gardia*, is a securitie giuen by the King to a straunger, fearing the violence of some of his subiects, for seeking his right by course of lawe: the forme whereof see in the Register originall. fol. 26. a.b.

*Sanctuarie* (*Sanctuarium*) is a place priuiledged by the prince, for the safegard of mens liues, that are offenders, being founded vpon the lawe of mercie, and vpon the great reuerence, honour, and deuotion, which the Prince beareth to the place, whereunto he graunteth such a priuiledge. Of this you may read a sufficient treatise in *Starnf. pl. cor. lib. 2. cap. 38*. This seemeth to haue taken beginning from the Citie of refuge, which *Moyse* appointed them to flie vnto for safegard of their liues, that had by casualty slaine a man. *Exodus, cap. 21*. In bastardly imitation whereof, first the *Athenians*, then *Romulus* erected such a place of immunity, which they, & he after them called *Axylum*. *Polidor. Virg: de inuentione rerum, lib. 3. cap. 12*. The Emperours of Rome made the places of their owne statues or Images, a place of refuge, as appeareth. *Cod. lib. 1. titulo 15. De iis qui ad statuas confugiunt*: as also the Churches: *eodem, titulo 12. De iis qui ad ecclesias confugiunt*, &c. But among all other nations,

our auncient Kings of England seeme to haue attributed most to these Sanctuaries, permitting them to shelter such, as had committed both felonies, and treasons, so that within forty daies they acknowledged their fault, and so submitted themselves to banishment: during which time, if any man expelled them, if he were laye, he was excommunicated, if a Clerk, he was made irregular. But after forty daies noe man might releue them. *Starnf. ubi supra*. See of this the new booke of *Entries: verb Sanctuary*: and *Fleta: lib. 1. cap. 29*. And how by degrees they haue beene taken away, you may read partly in him, and partly in the statutes. a. 26. H. 8. ca. 13. & anno 28. eiusdem, ca. 7. & anno 32. eiusd. ca. 12. & anno 33. eiusdem, cap. 15. & anno pri: Ed. 6. cap. 12. & anno. 2. eiusdem, cap. 2. & cap. 33. & anno 5. eiusdem, cap. 10. See *Aburraton*.

*Salarie* (*salarium*) is a recompence or consideration made to any man for his paines or industry bestowed vpon another mans busines. So called, as *Pliny* saith, *qui tam necessarium quam sal homini*. The word you haue anno 23. Ed. 3. ca pri.

*Salmon pipe*, anno 25. H. 8. cap. 7. is an engine to catch Salmones and such like fish.

*Sandal*, anno 2. *Rich.* 2. cap. 1. is a merchandize brought into England. And it seemeth to be a kinde of wood brought out of *India*. For (*Sandal*) in French so signifieth, and in latine it is called *Santalum*.

*Sarcling time*, or time of *sarcling*. Seemeth to be all one with hey feele. Or the time when the country man weedeth his corne. And it proceedeth from the latine *sarcularē*, to rake or weed. Or from the French (*Sarcler*) which hath all one signification.

*Sarpler* (*Sarplera lana*) is a quantitie of woll. This in Scotland is called Serplathe, and conteineth fourescore stone, for the Lords in the counsell in anno 1527. decreed foure serpliathe of packed wolles to containe 16. score stone of woll, by the trafique of Merchants now vsed. The Merchants vse to fraught for their goods to *Flanders*, by the Sack, to *Fraunce*, *Spaine*, and *England*, by the Tunne, and to *Dansken* and the *Easter seas*, by the Serpliathe. *Skene de verbo. significatione, verbo Serpliathe.* with vs in England a load of wolles (as I haue bene informed) consisteth of 80. todde, each todde consisting of two stone, and each stone of 14. pound. And that a Sack of wolles is in common account

equall with a load: and a Sarpler (otherwise called a pocket) is halfe a Sack. Further that a packe of wolles is a horse load, which consisteth of 17. stone. two pounds. *Fleta lib. 2. cap. 12.* saith that all our English measures are compounded of the peny sterling, which weigheth 32. wheate cornes of the middle sort. and that 2. of those pence make an ounce, and 12. ounces a pound in weight, or 20. shillings in number, and that 8. pound of wheat maketh a ialon or a galon as we now call it, and eight galons a bushell, and 8. bushells a common quarter. Also that 15. ounces of the quantitie aforesaid doe make a merchants pound. And that 12. such pound and a halfe, make a stone, and that 14. stone make a waigh, and that two waighes or 28. stone, make a sack of wolles, which ought to waigh a quarter of wheate, and that 12. sacks make a last. So that a waigh, and a sarpler seemeth to be all one, but that the sarpler is the case, and the weigh respecteth the quantitie of the wolles it selfe: And that a load and a sacke is all one.

*Saukefin*, is a phrase vsed by *Britton. cap. 119.* for the determination, or finall end, of the lineall race, or discent of a kin-



dred. It seemeth to come from the French (*Sang.i.sanguis*) and *Finé.i.finitus*.)

*Sauer de default*, is word for word, to excuse a default. This is properly, when a man hauing made default in court, cometh afterward and alleadgeth good cause, why he did it, as imprisonment at the same time, or such like. *Newe booke of Entries. verbo. Sauer de default.*

*Saulse conduitt* (*Salvus conductus*) is a security giuen by the Prince, vnder the broad seale to a straunger, for his quiet coming in and passing out of the Realme, touching which you may see the statuts. *anno 15. H. 6. cap. 3. & anno 18. eiusdem. ca. 18. & anno 28. H. 8. cap. pri.* The forme of this see in the *Register original*, fol. 25.

*Stawford*, was a man very learned in the common lawes of the land, wherein he wrote 2. bookes one termed the plects of the Crowne, the other the Princes prerogatiue. He flourished in the daies of *Ed. the sixth*, and of *Queene Mary*, being in *Queene Maries* daies a Iudge, and knighted.

*Scandalum Magnatum*, is the especiall name of a wrong done to any high personage of the land, as Prelates, Dukes, Earles, Barons, and other Nobles: and also of the Chancellor, treasurer,

clerk of the priuy seale, Steward of the kings house, Iustice, of the one bench or of the other, & other great officers of the realm, by false news: or horrible & false messages, whereby debates and discords betwixt them and the commons, or any scandall to their persons might arise. *anno 2. R. 2. cap. 5.*

*Scanage*, otherwise called *Shewage* is a kind of tolle, or custome exacted by Maiors, Shyreue, and Baylifs of Cities and Borough townes, of Merchants for wares shewed to be soulede within their precincts. which is forbidden by the statute. *anno 19. H. 7. cap. 8.* It cometh of the Saxon word (*Sceawe*) to behold or view, or to shewe. whence is the word (*Sceaw-stone*) a theater or shew place, a beholding place. *M. Verslegan in his restitution of decayed intelligences litera S.*

*Scire facias*, is a writ Iudiciall, most commonly to call a man to shew cause vnto the Court, whence it is sent, why execution of a Iudgement passed, should not be made. This writ is not graunted before a yeare and a day be passed after the Iudgement giuen, *ould nat. br. fol. 151.* *Scire facias* vpon a fine, lieth after a yeare and a day from the fine leviied. Otherwise it is all one with the writ *habere*.

*habere facias seisinam.* West. part. 2. *simb. titulo fines, sect. 137.* See an. 25. *Edwardi* 3. Sta. 5. cap. 2. v. anno 39. *Eliz. cap. 7.* The Register originall and Iudiciall also in the table sheweth many other diuersities of this writ, which reade. See also the newe booke of Entries. verb. *Scire facias.*

*Scyra.* Camd. Britan. pag. 103. & 544. See *Shyre.*

*Scot*, seemeth to come of the French (*escor. i. symbo'um*) *Rastall* saith it is a certaine custome, or common tallage made to the vse of the Shyreue, or his Baylifes. *Saxon in his description of England. cap. 11.* saith thus: *Scot* a gadering to worke of Bailes: what he meaneth God knoweth I thinke the place is corruptly printed. *Scot* (saith *M. Camden* out of *Mathewe of Westm.*) *illud dicitur, quod ex diuersis rebus in unum acervum aggregatur.* In the lawes of *William* the Conquerour, set forth by *M. Lamberd: fol. 125.* you haue these words, *Et omnis Francigena, qui tempore Edwardi propinqui nostri fuit in Anglia, particeps consuetudinum Anglorum, quod dicunt aue blote, & aue scote persolnantur secundum legem Anglorum.*

*Scot* and *Lot.* anno 33. *H. 8. ca. 19.* signifieth a custumary contribution laid vpon all subiects after their hability. *Roger Howden* writeth it *An'ote & Ausco-*

*te, in principio Henrici secundi.*

*Scotall* (*Scotalla*) is a word vsed in the Charter of the Forest. ca. 7. in these words, as *Pupilla oculi* hath them, parte 5. cap. 22. *Nullus Forestarius vel Bedellus, faciat Scotallas, vel garbas colligat, vel aliquam collectam faciat. &c.* *M. Manwood* parte pri. of his *Forest lawes. pag. 216.* thus defineth it. A *Scotall* is where any officer of the Forest doth keepe an alehouse within the Forest, by colour of his office, causing men to come to his house, and there to spend their mony, for feare of hauing displeasure. It seemeth to be compounded of *Scot* and *Ale.*

*Scutagio habendo*, is a writ that lieth for the King or other Lord against the Tenent, that houldeth by knights seruice, (wherein homage, fealcie, and escuage be contained) being to make a viage to warre against the Scots, or French men. For in those cases, this writ issueth out to all such tenents to serue by themselves, or a sufficient man in their place, or else to pay, &c. See *Fitzb. nat. br. fol. 83.* It is vsed in the Register originall, for him to recover escuage of others, that hath either by seruice or fine performed his owne to the King. fo. 88. a.

*Sealer* (*Sigillator*) is an officer in Chauncerie, whose dutie is to



seale the writs and instruments there made.

*Seane fish*, anno 1. *Iacob. fef. 1. cap. 25.* *Seane fish*, *ibidem*, seemeth to be that fish which is taken with a very great and long net called a seane.

*Second deliuerance* (*Secunda deliberatione*) is a writ that lyeth for him who after a returne of catel repleued adiudged to him that distreined them, by reason of a default in the party that replevied, for the repleuying of the same catell againe, vpon securitie put in for the redeliuerie of them, if in case the distresse be iustified. New booke of Entries. *verbo*, *Replevum in second deliuerance. fol. 522. col. 2. v. Dyer fol. 41. n. 4. 5.*

*Setta ad Curiam*, is a writ that lyeth against him, who refuseth to performe his suite either to the Countie, or Court Baron. *Fitz. nat. br. fol. 158.*

*Setta facienda per illum qui habet eniciam partem*, is a writ to compell the heire that hath the elders part of the coheires, to performe seruice for all the coparceners, *Regist. orig. f. 177. a.*

*Setta molendini*, is a writ lying against him, that hath vsed to grind at the mille of B. and after goeth to another mille with his corne. *Register orig. fol. 153. Fitz. nat. br. fol. 122.* But it seemeth by him, that this writ

lyeth especially for the Lord against his franke Tenents, who hold of him by making suite to his mill, *eodem*. See the new book of Entries. *verbo Setta ad molendinum*. By likelihood this seruice is also in *Fraunce*. For *Baldunus ad titulum de seruitutibus praediorum*, in *Institut.* hath these words: *Bannalis mola nova & barbara seruitutis species est, quae hodie passim rustici coguntur una mola, quam bannalem vocamus, vnoque furno uti ad quastum Domini, qui fortasse praestit iurisdictioni eius pagi.*

*Settam proferre*, est testimonium legalium hominum qui contractui inter eos habito interfuerint praesentes producere. *Fleta lib. 2. cap. 63. §. Nullus.* And *setta* is vsed for a witnes. *Idem, lib. 4. cap. 16. §. final.* *Habes tamen settam unam vel plures, &c.*

*Setta ad Iusticiam faciendam*, is a seruice due for a transfee to be performed, being by his fee bound thereunto. *Bracton. lib. 2. cap. 16. n. m. 6.*

*Setta unica tantum facienda pro pluribus hereditatibus*, is a writ that lyeth for that heyre that is distreined by the Lord to more suites then one, in respect of the land of diuers heires descended vnto him. *Register orig. fol. 177. a.*

*Settis non faciendis*, is a writ, that lyeth for one in wardship to

to be deliuered of all suites of Court during his wardship, *Register origin. fol. 173. b.* See other vse of this writ, *eodem, fol. 174.* touching women that for their dower ought not to performe suite of Court.

*Secunda superoneratione pastura*, is a writ that lyeth, where measurement of pasture hath bene made, and he that first surcharged the common, doth againe surcharge it, the measurement notwithstanding. *Register origin. fol. 157. old nat. br. fol. 73.*

*Secundarie*, (*secundarius*) is the name of an Officer next vnto the chiefe Officer: as the Secundarie of the fine Office: the Secundarie of the Counter: which is (as I take it) next to the Shyreuee in London in ech of the two Counters. Secundarie of the office of the priuie seale. *anno i. Ed. 4. cap. 1.* Secundaries of the Pipe two: Secundarie to the Remembrancers, two, which be Officers in the Exchequer. *Camden. pag. 113.*

*Securitatem inueniendi*, quod se non diuertat ad partes externas sine licentia Regis, is a writ that lyeth for the King against any of his subiects, to stay them from going out of his kingdome. The ground whereof is this, that euery man is bound to serue and defend the Commonwealth, as

the King shall thinke meet. *Fitz. nat. br. fol. 85.*

*Securitate pacis*, is a writ that lyeth for one, who is threatened death or daunger, against him that threateneth; taken out of the Chauncerie to the Shyreuee: whereof the forme and farder vse you may see in the *Register origin. fol. 88. b.* and *Fitz. nat. br. fol. 79.*

*Se defendendo*, is a plee for him that is charged with the death of another, saying that he was driuen vnto that which he did, in his owne defence, the other so assaulting him, that if he had not done as he did, he must haue bene in perill of his owne life. Which daunger ought to be so great, as that it appeare ineuitable. As *Stawford* saith in his plects of the Crowne. *li. 1. ca. 7.* And if he doe iustifie it to be done in his owne defence, yet is he driuen to procure his pardon of course from the Lord Chancellor, and forfeiteth his goods to the King. As the said authour saith in the same place.

*Seignior* (*Dominus*) is borrowed of the French (*seigneur*) It signifieth in the generall signification, as much as Lord: but particularly it is vsed for the Lord of the fee, or of a maner, euen as (*Dominus*) or (*senior*) among the Feudists, is he, who graunteth a fee or benefite out of his land



to another. And the reason is, (as *Hotoman* saith) because hauing graunted the vse and profite of the land to another: yet the proprietie, i. (*Dominium*) he still retaineth in himselfe. See *Hotoman in verbis feudal. verbo Dominus, & Senior*. Seignior in grosse, seemeth to be he that is Lord, but of no maner, and therefore can keepe no court. *Fitz. nat. br. fol. 3. b.* See *Seignorie*.

*Seignourage. anno 9. H. 5. stat. 2. cap. 1.* seemeth to be a regallie or prerogative of the king whereby he challengeth allowance of gold and silver brought in the masse to his Exchange, for coyne.

*Seignorie (Dominium)* is borrowed of the French (*seigneurie. i. dictio, dominatus, imperium, principatus, potentatus.*) It signifieth peculiarly with vs, a Maner, or Lordship. *Seignorie de soke mans. Kitchen fol. 80.* Seignorie in grosse, seemeth to be the title of him that is not Lord by meanes of any maner, but immediatly in his owne person: as *Tenure in capite*, whereby one holdeth of the King, as of his Crowne, is *seignorie in grosse*: because it is held of the king for the time being, and not of the King, as of any honour, maner, &c. *Kitchen, fol. 206.* See *Seignior*.

*Seisin (seisina)* is borrowed of

the French (*seisine. i. possessio*), and so it signifieth in our common lawe: and to *seise*, is to take possession. *Priemer seisin (prima seisinna)* is the first possession. See *Priemer seisin*, of the French word (*seisir*) is made a Latine (*seisire*), vsed by the Canonists. *cap. Clericis. §. Nos igitur non semel de immunitate Ecclesie, num. 6.* as also the Ciuilians. *Guido. Pap. singula. 865. Seisire est etiam possessionem tradere. Tiraquellus in Tractatu. Le mort saisit le vif. pag. 53. num. 3.* *Seisin* with our common Lawyers, is two fold: *seisin* in fact, and *seisin* in lawe. *Perkins Dower. 369. 370.* *Seisin* in fact is, when a corporall possession is taken: *seisin* in lawe, is when something is done, which the lawe accompteth a *seisin*, as an Inrolment. *Seisin* in lawe, is as much as a right to lands and tenements, though the owner be by wrong disseised of them. *Perkins Tenent per le courtese. 457. 478.* And it seemeth by *Ingham*, that he who hath had an houres possession quietly taken, hath *seisin de droit, & de claime*, whereof no man may disseise him by his owne force or subtiltie, but must bee driuen to his action. §. *Bref de novel disseisin. Sir Edward Cooke lib. 4.* calleth it *seisin in lawe*, or *seisin actuall. fol. 9. a.* The Ciuilians call the one *civilem possessionem*, the other *naturalem*.

*Seisina habenda quia Rex habuit annum, diem, & vastum*, is a writ that lyeth for the deliury of *seisin* to the Lord, of his land, or tenements, that formerly was conuicted of felony, after the King in the right of his prerogatiue hath had the yeare, day, and wast. *Reg. orig. fol. 165. a.*

*Selon* (*selio*) is borrowed of the French (*sellon. i. terra elata inter duos sulcos*) in Latine (*Porca*) in english a Ridge, or land. It signifieth euen so with vs also: and is of no certaine quantity, but some time conteineth an acre, sometime halfe an acre, sometime more, and sometime lesse. *West. parte 2. symbol: titulo. Recovery: sect: 3.* Therefore *Crompton* in his *Iurisdictions: fol: 221.* saith, that a *selion* of land cannot be in demaund, because it is a thing vncertaine,

*Seneshall* (*senescallus*) is a French word, but borrowed from Germany, being (as *Tilius* saith) compounded of *Schal. i. servus, aut officialis*, and (*Gesnid. i. familia*) we english it a Steward. As the high *Seneshall*, or Steward of England: *pl. cor: fol. 152.* High *Seneshall* or Steward, and South *seneshall*, or vndersteward. *Kitchin fol. 83:* is vnderstood for a steward, or vndersteward of Courts. *Seneshal de l'hôtel de Roy*, Steward of the Kings household. *Cromptons Iurisdictions.*

*fol. 102.*

*Senescallo & Mareſhallo quod non teneant placita de libero tenemento, &c.* is a writ directed to the Steward or Marshall of England, inhibiting them to take cognisance of any action in their court, that concerneth either Freehold, depr, or covenant. *Register orig. fol. 185. a. 191. b.*

*Senie, aliàs, Sene, (sena)* is a lease of a medicinable herbe, that bringeth foorth stalkes of a cubite high, purging phlegmaticke, cholericke, and also melancholicke humors, without great violence. The farder vse whereof you may reade in *Gerards Herbal. lib. 3. cap. 8.* This is mentioned among other drugs and spices to be garbled. *anno 1. Iacob. cap. 19.*

*Septuagesima* is a sunday certaine, and alwayes the third sabbath before Shrouesunday, from the which vntill the Octaues after Easter, the solemnizing of marriage is by the Canon lawes forbidden. The reason whereof is giuen, for that all this time vntill Easter, is a time of mourning for the fall of Adam, and for the miserie of man thereof insuing. And Easter with the Octaues thereof is a time of Christs glorification, and so of ours also in him, for his, and by him our conquest ouer death and sinne.



And that therefore all carnall affection ought, during that space, to be wholly mortified in vs. See *Quinquagesima*, see *Aduent*, see *Rogation weeke*.

*Sequatur sub suo periculo*, is a writ, that lyeth, where a summons *ad warrantizandum* is awarded, and the Shyreue returneth, that he hath nothing, whereby he may be summoned. Forthen goeth out an (*Alias*) and (*Pluries*.) And if he come not at the (*Pluries*) then shall go out this writ. *old nat. br. fol. 163.*

*Sequestration* (*sequestratio*) is a separating of a thing in controuersie from the possession of both those that contend for it. And it is double: voluntarie, or necessarie. Voluntary, is that which is vsed by the consent of each partie. Necessary is that, which the Iudge of his authoritie doth, whether the parties will or not. It is vsed also for the act of the ordinarie disposing of office, the goods and chazels of one deceased, whose estate no man will meddle with. *Dyer. fol. 232. num. 5. & fol. 256. num. 8. & fol. 160. nu. 42. & fol. 271. num. 26.* As also in the gathering of the fruites of a Benefice voide, to the vse of the next incumbēt. *anno 28. H. 8. cap. 11. Fortescue cap. 50.* and in diuers other cases.

*Sequestro habendo*, is a writ iudiciall for the dissoluing of a sequestration made by the Bishop, at the Kings commaundement, of the fruites of a benefice, thereby to compell the Parson to appeare at the suite of another: for the Parson vpon his apparence may haue this writ, for the release of the sequestration. *Regist. Iudicial. fol. 36. a.*

*Sergeant* (*seruiens*) commeth of the French (*sergeant. i. satellites, accensus*) a man of the Guard, a kind of souldier, so called, because he was *sapè accitus ad res necessarias in exercitu peragendas*. *Calepin. M. Skene de ver. sign. verb.* *Seriant*, hath these words: *Sergeant* commeth from *Serget*: *qua est vox composita de (Serrer) quod est, includere, & gent, quod pro gente, populo vel plebe usurpatur. Itaque Seriantus dicitur, qui iussu magistratus, quemlibet de populo reum criminis in carcerem conicit, seu includit.* This word *Sergeant* is diuersly vsed in our law, and applyed to sundrie offices and callings. First, a *Sergeant at lawe*, (or of the coyse) is the highest degree taken in that profession, as a *Doctor* is in the ciuill lawe. And to these, as men best learned, and best experienced of all others, is there one court seuered, to plead in by themselves: (and that is the Court of common-plees) where the common lawe

lawe of England is most strictly obserued. These are made by the Kings *mandat*, or writ, directed vnto them, commaunding them vpon a great penaltie, to take vpon them that degree by a day certaine therein assigned. *Dyer fol. 72. num. 1.* see *Counte*. And of these one is the Kings Sergeant, being commonly chosen by the King out of the rest, in respect of his great learning, to pleade for him in all his causes: as namely, in causes of treason. *pl. cor. lib. 3. cap. prim.* And of these there may be more if it so please the King. This is called in other Kingdomes, *Advocatus Regius*. *Cassan. de consuet. Burgund. pag. 850.* With what solemnitie these Sergeants be created, reade *Fortescue, cap. 50.* This word Sergeant seemeth to be vsed in *Britton* for an Officer belonging to the Countie: who, in his first chapter speaking of Appeales made before the Coroner, hath these words in effect: And then let the Coroner cause his appeale to be entred, and the names of his sureties. And afterward let commaundement be giuen to the Sergeant of the countie, where the felonie was committed, that he haue the bodie of the persons appealed at the next Countie. And it is probable, that this officer was all one with him, whom *Bra-*

*eton* in his fifth booke *cap. 4. num. 2.* calleth *Seruientem Hundredi*: of whome he hath these words: *Post probationem defaulta, faciet seruiens Hundredi incontinenti summonitionem, vel affideat partibus diem, si presentes sint, ad proximum Comitatum, &c.* This is like to be the same Officer, which in auncient time was called the Bayliffe of the Hundred, who (as is declared in *Bayliffe*) had the like authoritie in his Hundred, that the shyreue had in the Countie, though inferiour to him, and to be controlled by him, as appeareth by diuers auncient presidents set downe by *Kitchin* in his tractat of Returns in Court Hundred, Court Baron, &c. I read also in *Bracton lib. 3. tractat: 2. ca. 28.* Of the Kings Sergeant, who is like to be also an officer in the County, in these words: speaking of a woman raniished, and what shee ought to doe for the persuite of the Raniisher, & sic ire debet ad prapositum *Hundredi, & ad seruientem Domini Regis, & ad coronatores, & ad vicecomitē, & ad primū comitatū faciat appellū suū.* And againe *eod. lib. 32.* in these words: & si sine seſſa cognouerit se inde esse latronem coram vicecomite, vel coronatore, vel seruiente Domini Regis, &c. And againe *lib. 5. tractat: 3. cap. 4. m. 8.* in these words. *Quid si seruiens Domini Regis dederit partibus diem*



*ad Comitatum, &c.* And by *Fleta* it seemeth, that this terme was generall to the Shyreue, Coroner, and Bayliffes of Counties, who in his sixth booke. *cap. 3. §. 1.* hath these worde: *Cum quis igitur senserit dominum suum vel curiam suam sibi de recto defecisse, tunc ostenso hoc vicecomiti, statim precipiat balliuo Hundredi, vel itineranti, vel alteri seruiendi Regis, quod assumptis sibi liberis, & legalibus hominibus de vicineto illo, ad curiam illius domini, si quem habuerit accedat, &c.* And to helpe this probability, I finde that the steward of a maner is termed *seruiens manerii*. *Coke Vol. 4. Copyhold cases. fo. 21. a.* Then is there a Sergeant at armes (*seruiens ad arma*) whose office is to attend the person of the King, *anno 7 H. 7. ca. 3.* to arrest traitours, or men of worth or reckoning, that doe, or are like to contemne messengers of ordinary condition for other causes, and to attend the Lord high Steward of England sitting in Iudgement vpon any Traytour, and such like: *pl. cor. lib. 3. cap. pri.* Of these by the statute *anno 13. R. 2. cap. 6.* there may not be aboue thirtie in the Realme. This sort is called *del espee*. In the customary of *Nor. ca. 5.* which read. There be also some two of these Sergeants of the Parliament, one for the vpper, another for the lower

house, whose office seemeth to serue for the keeping of the doores, and the execution of such commaundements, especially touching the apprehension of any offender, as either house shall thinke good to inioyne them. See *Cromptons Iurisdictiones*, fol. nono. See also *Vowels*, alias *Hookers* booke of the order of the Parl. There is one of these that belongeth to the Chauncery, who is also called a Sergeant of the Mace, as the rest may be, beeaufe they cary Maces by there office. He of the Chauncery attendeth the Lord Chaunceller, or Keeper in that court, for the meanes to call all men into that court, is either by this officer or by *sub poena. West. pa. 2 sym. tit. Chauncery Sect. 17.* Then be there sergeants that be the chiefe officers in their seuerall functions within the kings houshold, which be chiefe in their places, of which sort you may read many named in the statute *anno 33. H. 8. ca. 12.* There is also a more base kinde of sergeant of the Mace, whereof there is a troupe in the City of London, and other townes corporate, that serue the Maior or other head officer, both for messuall attendance, and mater of Iustice. *Kuebin fol. 143.* And these are called *Seruientes ad clauā*. New book of Entries. *ver. scire facias:*

*factus: in Mainperners. f. 538. c. 3.*

Sergeantie) *Seriantia*) cometh of the French (*Sergeant. i. satellites*) & signifieth in our common law, a seruice due to the King fro his tenet holding by such seruice. For this seruice cannot be due to any *L.* from his Tenet, but to the King onely. And this is either grand, or petit, as you shall find at large set downe in Chivalrie. Of this also you may read *Br l. 2. c. 16. & c. 37. n. 5. 4. & Brit. c. 66. n. 1. & 2.* See *Seruice. M. Skene de ver. signifi.* calleth this *Sergeanterie*, defining and diuiding it as we doe in England.

*Servientibus*, are certaine writs touching seruants, and their Masters violating the statutes made against their abuses. which see in the *Regist. orig. fol. 189. & 190. & 191.*

*Service (seruitium)* though it haue a generall signification of dutie toward them vnto whome we owe the performance of any corporall labour, or function: yet more especially in our common lawe, it is vsed for that seruice, which the tenent by reason of his fee, oweth vnto his Lord. And so doth it signifie among the Feudists also. For *Hotoman* thus defineth it. *Seruitium est munus obsequii clientelaris. verbo Seruitium.* De *verbis feudal.* or rather declareth it so to be defined. *lib. feud. 2. titulo*

51. §. 8. It is sometime called seruage, as *anno. i. R. 2. cap. 6.* This seruice is either militarie, and noble, commonly called Knights seruice: or clownishe & base, commonly called socage. of both which reade *Chivalry*, as also *socage.* and *Bracton lib. 2. cap. 16.* Seruice is diuided by *Bruton* into personall, and reall. *cap. 66.* where he maketh wards, mariags, homage, Releifs, and such like, to be reall seruices: personall, I imagine, may those be called, that are to be performed by the person of the Tenent, as to follow his Lord into warre, &c. The Ciuilians diuide *munera* in this sort, either in *personalia*, or *patrimonalia*. Then *Bracton ubi supra num. 7.* distributeth *seruitium* in *intrinsicum*, & *extrinsecum* aliis *forinsecum*. & *medium*. *Seruitium intrinsicum* is that, which is due to the capitall Lord of the maner, *Forinsecum* is that which is due to the King, and not to the capitall Lord, but when he goeth in his owne person to serue: or when he hath satisfied the king for all seruices whatsoeuer. And againe in the same place he saith, it is called *Forinsecum, quia fit, & capitur foris, sive extra seruitium, quod fit Domino capitali.* see *Forin seruice.* Of this reade him *ubi supra*, more at large. and *Fleta, lib. 2. ca. 14. §. Continetur.*



*Servitia que nec intrinseca nec forinseca sunt*, Bract. handleth in the same chap. n. 8. saying thus: *sunt etiam quedam consuetudines, que nec dicuntur intrinseca, nec forinseca: sed sunt quedam servitia concomitantia, sicut servitia regalia, & militaria, & etiam homagia: & ideo in chartis non sunt exprimenda. Quia si homagium praeceperit, & regale servitium, sequitur exinde quod ad capitalem Dominum pertinebit Relevium, & custodia, & maritagium: siue servitium sit militare, vel seriantia propter exercitum, &c.* Here then Reliefe, Ward, and Mariage, be those seruices, which he calleth, *nec intrinseca, nec forinseca, sed concomitantia*. Service is also devided into frank service, and base, or villenous service: the one Bracton, calleth (*liberum servitium*) the other (*servitium villanum*) or (*villenagium*) lib. 2. cap. 8. nu. pr. This *villenagium* is Socage in base tenure, as to dung the Lords ground, to serue him so many daies in haruest, to plash his hedges, &c. or els copy hould. All other seruices seeme to be frank. Service consisteth some in seifance, some in render. Perkins Reservations. 696. Service seemeth also to be diuided into continuall, otherwise annuall, and casuall, or accidentall. An example of the former is the seifin of rent, and of the other, sei-

fin of reliefe. Sir Ed. Cookes reports. lib. 4. Beuils case. fol. 9. n. see Copy hould: See Socage. See Ayde.

*Servicie secular. anno 1. Ed. 4 ca. 1.* which may be contrary to spirituall, viz. the seruice diuine commaunded to spirituall men by their founders.

Servitors of bills, seeme to be such seruants or messengers of the marishall belonging to the kings bench, as were sent abroad with bills, or writs to summon men to that court, being now more ordinarily called *Tp. Stafs.*

*Servitus acquietandis*, is a writ Iudiciall, that lieth for one distreined for seruices by Iohn, which oweth and performeth to Robert, for the acquittal of such seruices. Register Iudicial, fol. 27. a. & 36. b.

*Sessions (Sessiones)* significth in our common lawe a sitting of Iustices in court vpon their commission: as the sessions of oyer, and terminer. pl. cor. fol. 67. Quarter sessions, otherwise called generall sessions. anno 5. Elizab. cap. 4. or open sessions, *ibidem*. Opposite whereynto are especiall, otherwise called priuie sessions, which are procured vpon some speciall occasion, for the more speedie expedition of Iustice in some cause. Cromptons Iustice of peace. fol. 110. what things

things be inquirable in generall sessions: see *Cromptons Iustice of peace*, fol. 109. Petit sessions, or statute sessions are kept by the high Constable of euery Hundred, for the placing of seruants, anno 5. Eli. cap. quart. in fine.

*Sessour*. anno 25. Ed. 3. cap. 6. seemeth to signifie so much as assessing or rating of wages at this day,

*Set clothes*, anno. 27. Henric. 8. cap. 13.

*Setwell* (*Valeriana*) is a medicinall herb, the nature and diuers kinds whereof you haue in *Gerards herball*, lib. 2. cap. 424. The roote of this is mentioned among drugs to be garbled, anno. 1. Ia. cap. 19.

*Seuerance*, is the singling of two or more, that ioyned in one writ, or are ioyned in one writ. For example, if two ioyned in a writ *de libertate probanda*, and the one afterward be non-suite, here seuerance is permitted; so that, notwithstanding the non-suite of the one, the other may seuerally proceede. *Fitzh. nat. br. fol. 78. l. K.* Of this see *Brooke, titulo seuerance, & summons. fol. 238.* For it is harder to knowe in what cases seuerance is permitted, then what it is. There is also seuerance of the tenants in an Assise, when as one or two, or more disseisours appeareth vpon the writ, and

not the other. New booke of *Entries*, fo. 81. col. 4. & seuerance in attaints. *cod. fol. 95. col. 3.* And seuerance in debt. *verbo. debti. fol. 220. col. 1.* see the saide booke, *verbo seuerance.*

*Seuerall taile* (*tailium separatum*) is that whereby land is giuen and entayled seuerally to two. For example, land is giuen to two men, and their wiues, and to the heires of their bodies begotten: the Donees haue ioynt estate for their two liues, and yet they haue seuerall inheritance: because the issue of the one shall haue his moyety, and the issue of the other, the other moyetie, *Kitchin ibidem.*

*Seuerall tenancie* (*tenura separalis*) is a plee, or exception taken to a writ, that is laide against two as ioynt, which are seuerall, *Brooke titulo, Seuerall tenancie. fol. 237.*

*Sewantly women*, an. 35. El. c. 10.

*Sewar*, hath two significations with vs, one applied to him that issueth or commeth in before the meate of the King, or other great personage, and placeth it vpon the table: the other to such passages, or gutters as casie water into the sea, or riuer, in lawyers Latine called *Sewera*, an. 6. H. 6. c. 5. which is also vsed in common speach for commissioners authorised vnder the broad seale to see draines, and ditches



ditches well kept, and maintained in the marish and fenne countries, for the better conveyance of the water into the sea, and the preserving of the grasse for feede of catell. *stat. anno 6.H.6.cap. 5.* It is probable to bring this word from the French (*issir*) or (*issue*) as if we should call them (*Issuers*) because they giue issue or passage to the water, &c. And the latine word (*suera*) sometime vsed in these commissions for these draines, is a competent reason of this coniecture: see *Eitzh.nat.br. in oyer and terminer*. Yet I finde in an old French booke containing the officers of the King of Englands court as it was aunciently gouerned, that he whom in court we now call Sewer, was called (*Assesseur*) which may seeme to come from the French (*Assessor*) wherein his office in setting downe the meat vpon the table is well expressed. And Sewer as it signifieth an officer, is by *Fleta* latined *Assessor: li. 2.ca. 15.* All which argueth that the descent of this word is from the French (*Assessor*) as signifying a disposing or placing of any thing, or (as we say in English) an assessing of any person toward the performance of a dutie.

*Sexagesima.* See *Septuagesima.*

*Shanches* See *Furre.*

*Shares.* See *Flozzen.*

*Shewing*, is to be quit of attachment in any court, and before whom soeuer in plaints shewed and not avowed. Newe exposition of law termes. *verbo*, *Shewing.* See *Scavage.*

*Shipper.* anno 1. *Iac. ses. 1. ca. 33.* is a Dutch word, signifying the Master of the ship.

*Shire*, (*Comitatus*, *Shira*) is a Saxon word, signifying *Satrapian*, of the verbe (*scyran. i. partiri.*) *Lamb.* in his explication of Saxon words. *verbo Centuria.* The word is in vse so rise, that euery child vnderstandeth it. Who first thus diuided this land into shires, appeareth by *M. Camdens Britan. pa. 102.* in these words. *Nec dum tamen florentie Heptarchia, Anglia ita in Comitatus diuisa, (sic enim vulgò vocant) sed postea, cum solus Aluredus rerum potiretur. Ut enim Germani maiores nostri, teste Tacito, iura per pagos vicossq; reddebant, & centeni ex plebe comites ad rem administrandam adiungebantur: sic ille (ut Ingulsi Croulandensis verbis utar) primus Angliam in Comitatus diuisit, quod indigena rapinas committerent exemplo & colore Danorum. Comitatus porò in Centurias. i. Hundreds, & Decimas. i. Tythings, distribuit: praecepitq; ut omnis indigena in aliqua esset Centuria, & Decima. Praefectos etiam prouinciarum,*

uniciarum, qui antea Vicedomini vocabantur, in duo officia diuisit, viz. Iudices, nunc Iusticiarios: & Vicecomites, qui adhuc idem nomen retinent. See the rest.

Shyreue (Vicecomes) is compounded of these saxon words (Scyre .i. satrapia) and (Reue .i. praefectus) and accordingly he is the cheife officer vnder the King of his Shyre, or County. See *Ferne in Lacies nobility*: pag. 12. *M. Camden*: pag. 104. Thus describeth his office: *Singulis vero annis, nobilis aliquis ex incolis praeficitur, quem vicecomitem, quasi vicarium comitis, & nostra lingua Shref. i. comitatus praepositum vocamus: qui etiam comitatus, vel provinciae Quaestor recte dici potest. Eius enim est publicas pecunias provinciae suae conquirere, multas irrogatas, vel pignoribus ablatis colligere, & arario inferre, Indictus praesto adesse, & eorum mandata exequi, duodecim viros cogere, qui in causis de facto cognoscunt, & ad Indices referunt (Indices enim apud nos, iuris solum, non facti sunt Indices) condemnatos ad supplicium ducere, & in minoribus libris cognoscere. In maioribus autem ius dicunt. Iusticiarii, quos itinerantes ad Assisas vocant, qui quotannis hos Comitatus bis adveniunt, ut de causis cognoscant, & de incarcerationis sententiam ferant. Henricus secundus hos itinerantes instituit, vel potius restituit. Ille (ut inquit Mathew*

*Parisiensis*) consilio filii sui & Episcoporum constituit Iusticiarios per sex partes regni, in qualibet parte tres, qui iurarent quod exilibet ius suum conservarent illisum. Of the antiquitie and authoritie of this officer, reade *Sir Edward Cookes Reports. lib. 4. Mittons case*. The maner of appointing these Shyreuees in *Henry* the sixt his dayes, see in *Foiescues. cap. 24. fol. 53. b.* The name *Vicecomes* commeth from the Normans, as *Shyreuee* commeth from the Saxons. For in the fifth Chapter of the Grand Customarie, you haue (*vicante*) which the Latine Interpreter turneth (*vicecomitem*) whose office you shall find in *that* Chapter to be very like vnto ours. The forme of the Shyreuees oath: see in the *Register origin. fol. 301. b.* Of this reade *M. Skene de verbor. signif. verbo Shyreuee*: where he largely describeth the office of the Shyreuee in *Scotland*, in a discourse woorth the reading.

*Shyreuee* weke of *Winchester* and of *Essex. anno 21. R. 2. cap. 10. & 11.*

*Shire Clerke*, seemeth to bee the *Vnder Shyreuee. anno 11. H. 7. cap. 15.* It is vsed sometime for a Clerk in the County court, deputie to the *Vnder Shyreuee*. See *Sir Edward Cookes 4. booke of Reports in Mittons case.*

*Shire moreo. see Turne.*



*Shorling*, and *Morling* seeme to be words to distinguish fells of sheepe: as if *shorling* should signifie the fells after the fleeces be shorne off the sheepes backe, and *morling* the fells fleane off after they be killed or dye alone. anno 3. Ed. 4. cap. prim. & anno 4. eiusdem, cap. 3. & anno 12. eius. cap. 5. & anno 14. eiusdem, cap. 3.

*Shot* commeth of the Saxon word, *scate*, signifying *pecuniam aut vestigal*. Lamberds explicatiō of saxon words, *verbo Primitia*.

*Shrof metall*.

*Sicut aliās*, is a writ sent out in the second place, whereas the first sped not. *Coke libro quart. folio 55. b.* It is so called of these words expressed in it. For example. *Iacobus dei gratia, &c. vicecomiti Kan: salutem: Precipimus tibi (sicut aliās praecepimus) quod non omittas propter aliquam libertatem in Ballua tua, quin eam ingrediaris, & capias. A. B. de C. in comitatu tuo Labourer. &c.* as in the first *capias*. Lamb: in his tractat of procesles in the end of his *Eirenarcha*.

*Sidemen aliās Quest men*, be those that are yearely chosen according to the custome of euery parish, to assist the church warden in the inquiry and presenting such offenders to the Ordinary, as are punishable in the

Court Cristian.

*Significauit*, is the writ *de excommunicato capiendo*, which issueth out of the Chauncery vpon a certificate giuen by an Ordinary of a man that standeth obstinately excommunicate by the space of fourty daies, for the laying him vp in prison without bayle, or mainprise, vntill he submit himselfe to the authority of the church. And it is so called, because of the word (*significauit*) mentioned in the writ (*De excommunicato capiendo*) which haue relation to the certificate, sent into the Chauncery by the Ecclesiasticall Iudge. There is also another writ in the *Register orig.* of this name, *fo: 7. a.* directed to the Iustices of the bench, willing them to stay any suite depending betweene such and such, by reason of any excommunication alledged against the plaintiffe: because the sentence of the Ordinarie that did excommunicate him, is appealed from, and the appeale yet hangeth vndecided. Which see: and see *Fitz. nat. br. De excommunicato capiendo. fol. 62. N.* but especially 66. *A.* where you may find writs of this name in other cases.

*Sine assensu capituli*, is a writ that lyeth in case where a Deane, Bishop, Prebendarie, Abbot, Prior or Master of Hospitall, alieneth the

the land held in the right of his house, without the consent of the Chapter, Couent, or Fraternitie. For in this case his successor shall haue this writ. *Fitzb. nat. br. fol. 195.*

*Si non omnes*, is a writ of association, whereby if all in cōmission cannot meete at the day assigned, it is permitted, that two or more of them may finish the businesse. See *Association*. And *Fitz. nat. br. fol. 185.* & 111. C. and *Register origin. fol. 202. 206. & 124.*

*Si recognoscant*, is a writ that lyeth for a Creditour against his depter for money numbred, that hath before the shyreue in the Countie court, acknowledged himselfe to owe vnto his creditor such a summe receiued of him in *numeratis pecuniis*. The forme of the writ is this: *Rex Vicecomiti salutem. Prac. tibi quod si A. recognoscat se debere R. 40. solid. siue vltiori dilatione, tunc ipsum distringas ad predictum debitum eidem R. sine dilatione reddendum. Teste, &c. Old nat. br. fol. 68.*

*Skare. anno 4. Ed. 4. cap. 1.*

*Skyuinage. anno 27. H. 6. cap. 2.* a proper name, signifying the precincts of *Caleis*.

*Sinse (exclusa)* is a frame to keepe, or let water out of a ground.

*Sac (Soca)* is a word signi-

fying a power, or libertie of Iurisdiction, as appeareth by these words out of *Bracton*, *Sunt quidam Barones, & alii libertatem habentes, scilicet soc, & sac, Tol & Thean, Infangtheffe, & Vsfangtheffe, & isti possunt indicare in Curia sua, cum qui inuentus fuerit infra libertatem suam seiscitus de aliquo latrosinio manifestus. & li. 3. tractat. 2. cap. 8.* In the lawes of King Edward set out by *M. Lamberd, fol. 132.* you haue these words: *Socha est quid si aliquis querit aliquem in terra sua, etiam furtum, sua est Iusticia, si inuentum fuerit, an non. Saxoni in the description of Britany, cap. 11.* saith, that *Sock* is a suite of Court and that thereof cometh *Soken*. But the signification of the word (as I haue bene credibly informed) is as much as *Inquisitio* which we in moderne English, terme (seeking) Of this (*Sok*) *Skene de verborum signific.* speaketh to this effect. *Sok* is an ould word vsed in Charters and feofments, which in sundry old bookes containing the municipiall law of this Realme, is called *Secla de hominibus suis in curia, secundum consuetudinem Regni.* So after my opinion he that is infeoffed with *Sok* (which now we call *Sot* (but we in England *Suite*) hath power to hould courts within his owne Baronie, in which, *homines sui*



should giue Soye. Thus farre  
*M. Skene.* Of this *Fleta* hath  
these words. *In huiusmodi verò*  
*maneris* (speaking of the Kings  
maners) *erant olim liberi homines*  
*liberè tenentes*, *quorum quidam*  
*cum per potentiores è tenementis*  
 *suis erectis fuerant, & eadem post-*  
*modum in villenagium tenenda re-*  
*sumpserunt: & quia huiusmodi tenen-*  
*tes cultores Regis esse dinoscuntur,*  
*eis provisa fuit quies ne sectas face-*  
*rent ad comitatus vel hundredos,*  
*vel ad aliquas inquisitiones, assisus*  
*vel iuratas, nisi in manerio tantum,*  
*dum tamen pro terra, quorum con-*  
*gregationem tunc socam appella-*  
*runt. & hinc est quòd Socmanni*  
*hodie dicuntur esse. A socio enim de-*  
*riuantur, quorum tenementa sunt*  
*villenagium domini privilegiatum,*  
& ideo dicuntur gleba ascriptiui, eo  
quòd ab huiusmodi glebis amoveri  
non deberent, quam diu soluerent de-  
bitas pensiones: nec compelli poterunt  
ad huiusmodi tenementa tenenda,  
contra suas voluntates, eo quòd cor-  
pora sua sunt libera. Nec obstat  
longa servitutis possessio ad libertatē  
extinguendam, quamvis ad mer-  
chetum sanguinis sui compulsus  
fuerit quis pro tenemento reddendo.  
Nulla enim servitus ratione præ-  
scriptionis temporis potest liberum  
sanguinē in servitutē reducere, non  
magis quam liberum tenementum  
potest servum in libertatem, &c.  
By whose words it appeareth,  
that Socca is nothing else, but

the meeting or assembly of  
these kinde of tenents in any  
place within the maner or libertie:  
wherefore he that hath soc  
may seeme to have such a man-  
ner, such tenents, and such a  
libertie belonging to his maner  
and tenents, as is here described.  
Here you see diuersities of opi-  
nions touching this word, one  
saying that it is a power or li-  
bertie to seeke after theeves  
& stolen goods within a maner  
or fee, and to doe iustice vpon  
such inquisition. others that it  
is a libertie onely to haue sur-  
ters to his court. other (as *Fleta*,  
that it containeth both the  
former significations, and surder  
that it is taken for the company  
of tenents which live within  
such a liberty; and are exem-  
pled from those common ser-  
uices of the Prince and coun-  
try wherunto subiects are or-  
dinarily tied. This kinde of li-  
berty is in diuers places et this  
day in England, and com-  
monly knowne by the name  
of soke or soken. See Soke and  
Socmanns.

*Soccage* (*soccagium*) commeth  
of the French (*Soc. i. vomer*, a  
plowshare or coulter). It sig-  
nifieth in our common lawe a  
tenure of lands by or for cer-  
taine inferiour, or husbandly  
seruices to be performed to the  
Lord of the fee. See *Instituts* of

*common lawe.* 31. As I haue shewed in (*Chivalrie*), all seruices due for land, is either knights seruice, or socage. So then, whatsoeuer is not knights seruice, is socage. Bracton in his 2. booke cap. 35. num. primo. describeth it thus. *Dici poterit socagium à Socco, & inde tenentes qui tenent in Socagio, Sockmanni dici poterunt, eo quod deputati sunt, ut videtur, tantummodo ad culturam, & querum custodia, & maritagia ad propinquiores parentes inre sanguinis pertinebit. Et si aliquando inde de facto capiatur homagium, quod pluries contingit, non tamen habebit propter hoc Dominus capitalis custodiam, & maritagiū. Quia non semper sequitur homagium, licet aliquando sequatur. M. Skene de verborum significatione. verb. Sockmannia, saith, that Socage is a kinde of holding of lands, when a man is infeoffed freely without any seruice, ward, releife, or marriage, and paieth to his Lord such dutie, as is called petit sergeantie, or when one holdeth land in the name of burgage, or in libera elemosina, or otherwise in blenche ferme, siue nomine alba firmæ, & opponitur militi, qui tenet per seruitium militare. Out of the place aboue named in Bracton, you may finde a diuision of Socage, wherby it is termed either *Socagium liberum*, or villa-*

*num.* frank or free Socage, and base, otherwise called villenage. The former is there thus defined. *Socagium liberum est, ubi fit seruitium in denariis Dominis capitalibus, & nihil inde omnino datur ad scutum & seruitium Regis.* Where I gather that to be free socage which paieth a certaine summe of money to the cheife Lord in regard of some tillage, or such like, and not of any Sergeantie, or eschuage. And to this effect he writeth also, *lib. 2. cap. 16. nu. 9. &c. unde si tantum in denariis & sine scutagio vel seriantis, vel si ad duo teneatur sub disunctione. scilicet ad certam rem dandam pro omni seruitio, vel aliquam summam in denariis, id tenementum potest dici Socagium: si autem superaddis Scutagiū, aut seruitium regale, licet ad unum obolum vel seriantiam, illud poterit dici feudum militare.* This free Socage, is also called common Socage, anno 37. H. 8. cap. 20. Socage in base tenure, or villanum Socagium, is diuided againe in villanum Socagium, & purum villenagium: Villanum Socagium est illud, de quo fit certum seruitium, idque ratione sui tenementi, non persona sua. Purum villenagium est illud, in quo prestatur seruitium incertum, & indeterminatum, ubi sciri non poterit vespere, quate seruitium fieri debet manere. viz. ubi quis facere tenetur



*quicquid ei preceptum fuerit. Bratton lib. 2. cap. 8. num. 3.* The old. nat. br. fol. 94. maketh three parts of this diuision, viz. Soccage of freetenure, Soccage of auncient tenure, and soccage of base tenure. Soccage of free tenure is (as the booke saith) where a man holdeth by free seruice of 12. pence by yeare, for all maner of seruices, or by other seruices yearly. Soccage of auncient tenure is of land of auncient *Demefn*, where no writ originall shall be shewed, but the writ of Right, that is called *secundum consuetudinem manerii*. Soccage of base tenure is of those that hold in Soccage, and may haue none other writ, but the *Monstraverunt*: and such Sockmen hold not by certaine Seruice. And for that are they not free Sockmen. Then againe Soccage is diuided into soccage in cheife, and common soccage. Soccage in cheife or in *capite*, is that which holdeth of the King, as of his Crowne. *Prerog. fol. 41.* Common Soccage is that, which holdeth of any other capitall Lord, or of the King by reason of some honour or maner. *Ibidem.* Burgage is also a kinde of Soccage, See *Burgage*.

*Sockmans (Sockmanni)* are such tenents as hold their lands, and tenements by Soccage tenure.

And accordingly as you haue 3. kinds of Soccage, soe be there 3. sorts of sockmans. as sockmans of frank tenure. *Kitchin, fol. 81.* sockmans of auncient *Demefn*. *ould nat. br. fol. 11.* and Sockmans of base tenure. *Kitchin ubi supra.* But the tenents in auncient *Demefn*, seeme most properly to be called *Sockmans*, *Fitzh. na. br. f. 14. B. Brit. c. 66. n. 2.*

*Soke, anno 32. H. 8. cap. 15. & cap. 29.* Of this *Fleta* saith thus *Soke significat libertatem curia tenentium. quam socam appellamus. lib. 1. cap. 47. §. Soke.* See *Roger Houeden, parte poster. suorum annalium. fol. 345. b.* and See *Soc.*

*Soken (Soca)* see *Soc.* and *Hamsoken.* *Soken* is latined *soca* Register originall. fol. 1. a.

*Sokercue* seemeth to be the Lords rent-gatherer in the *Soke*, or *Soken*, *Fleta, lib. 2. cap. 55. in principio.*

*Sole tenent (Solus tenens)* is he or shee which holdeth onely in his or her owne right without any other ioyned. For example, if a man and his wife hold land for their liues, the remainder to their son: here the man dying, the Lord shall not haue Heriot, because he dieth not sole tenent. *Kitchin, fol. 134.*

*Solicitor (Solicitor)* cometh of the French (*Soliciteur*) It signifieth in our commo law, a man imploied to follow suites depen-

ding in law, for the beter remembrance and more ease of Attornies, who commonly are so full of clients and busines, that they cannot so often attend the seriants and counselers as the case may require.

*Solet & Debet.* See *Debet & solet.*

*Solidata terra.* See *Farding deale of land.*

*Sollace, anno 43. Elizabeth. cap. 10.*

*Sommons, aliàs summons* (*summonitio*) commeth of the French (*semondre .i. vocare*) It signifieth in our common law, as much as (*vocatio in ius*) or (*citatio*) among the Ciuilians. And thence is our word (*somner*) which in French is (*semonneur .i. vocator, monitor*) The Customary of *Normandie* for our (*summons* hath (*semonse*) *ca. 61. summons of the Exchequer anno 3. Ed. pri. ca. 19. & anno 10. eiusdem, cap. 9.* How summons is diuided, and what circumstances it hath to be obserued. See *Fleta, lib. 6. cap. 6. 7.*

*Solutione feodi militis Parlamenti, and solutione feodi Burgen. Parlamenti,* be writs whereby Knights of the Parliament may recouer their allowance, if it be denied, *anno 35. H. 8. ca. 11.*

*Sontage.* *Stow. pag. 284.* is a taske of fourty shillings laid vpon euery Knights fee.

*Sorting Kerseies. 3. Iacobi. ca:*

16.

*Sothale,* is a kinde of intertainment made by Bayliffes to those of their Hundreds for their gaine. Which sometime is called *Filtale*. Of this *Bracton lib. 3. tracta: 2. cap. pri.* hath these words : *De Balliis, qui faciunt cernisias suas, quas quandoq; vocant (sothale) quandoq; (Filtale) ut pecunias extorqueant ab eis qui sequuntur Hundreda sua, & Baluias suas, &c.* I thinke this should rather be written *Scotale*. See *Scotale*.

*Southuicon* (*Subvicecomes*) is the vnder Shyreue. *Cromptone Iurisdict: fol: 5.*

*Sowne,* is a verb neuter, properly belonging to the Exchequer, as a word of their art, signifying so much, as to be leuiable, or possible to be gathered or collected. For example, estreats that sownenot, are such as the Shyreue by his industry cannot get, and estreats that sowne, are such as he can gather, *anno 4. H. 5. ca. 2.*

*Speaker of the Parliament,* is an officer in that high Court, that is as it were the common mouth of the rest : and as that honourable assembly consisteth of two houses, one called the higher or vpper house, consisting of the King, the nobility, and Kings counsell, especially appointed for the same, the other termed the lower or commonhouse,



containing the Knights of the Shires, the citizens, barons of the cinque ports, and the burgeses of borough townes: so be there also two speakers, one termed the Lord Speaker of the higher house, who is most commonly the Lord Chaunceller of England, or Lord Keeper of the great seal: the other is called the speaker of the lower house. And the duties of these two you haue peticularly described in *M. Vowels, alias Hookers* booke, intituled *The order and vsage of keeping the Parliament.*

*Speciall mater in euidence. See Generall issue. And Brooke. inulo Generall issue, and speciall euidence.*

*Spiritualties of a Bishop (spiritualia Episcopi)* be those profits which he receiueth, as he is a Bishop, and not as he is a Baron of the Parliament. *Stawnf. pl. cor. fol. 132.* The particulars of these may be the duties of his Visitation, his benefite growing from ordering and instituting Priests, prebendation money, that *subsidium charitativum*, which vpon reasonable cause he may require of his Clergie, *Iohannes Gregorius de Beneficiis. cap. 6. num. 9.* and the Benefite of his Institution. *Ioachimvs Stephanus de Iurisd. lib. 4. cap. 14. num. 14.* for these reckoneth *expeditionem Cathedralici, quartam, Decima-*

*rum, & moruariorum, & oblationum pensitationem, subsidium charitativum, celebrationem synodi, collationem viatici vel comneatus, cum Episcopus Romanus proficiscitur, in hospitii, Lataniam & Processionem.*

*Spikenard (spica nardi, vel nardus)* is a medicinall herbe, whereof you may for your farder instruction reade *Gerards Herball. lib. 2. cap. 425.* The fruite or care of this (for it bringeth forth an care like *La-uender*) is a drugge garbleable, *anno 1. Iacob. cap. 19.*

*Spoliation (spoliatio)* is a writ, that lyeth for an incumbent, against another incumbent, in case where the right of patronage commeth not in debate. As if a Parson bee made a Bishop, and hath dispensation to keepe his Rectorie, and afterward the patron present another to the Church, which is instituted and inducted: The Bishop shall haue against this incumbent a writ of *spoliation in Court Christian.* *Fitz. nat. br. fol. 36.* See *Beneuolence.*

*Squalley. anno 43. Eliz. b. cap. 10.*

*Squyers. See Esquires.*

*Stablestand*, is one of the foure Euidences, or presumptions whereby a man is convinced to intend the stealing of the Kings Deere in the Forest. *Man-*

*Manwood.* parte 2. of his Forest lawes. cap. 18. num. 9. the other three be these *Dogdrawe*, *Backbeare*, *Blondie-hand* And this *Stablestand*, is when a man is found at his standing in the Forest, with a Crosse bowe bent, ready to shoote at any Deere, or with a long bowe, or else standing close by a tree with Greyhounds in a lease, ready to slippe, *Idem, eodem.*

*Stalkers*, a kind of net. anno 13 R. 2. stat. 1. cap. 20. & anno 17. eiusdem, cap. 9.

*Stallage* (*stallagium*) commeth of the French (*Estaller. i. merces exponere, expedire, explicare.*) It signifieth in our common law, money payed for pitching of stalles in Faire or Market. See *Scavage*. This in Scotland is called *stallange*. *Skene de verbor. signif. verbo Stallangiatores.* And among the Romaines it was termed (*Siliquaticum*) à *siliqua, primo & minimo omnium pondere apud illam nationem.*

*Stannaries* (*stannaria*) commeth of the Latine (*stannum.*) i. *tygne*, signifying the Mines and workes touching the getting, and purifying of this mettall in *Cornewall*, and other places. Of this read *Camden. Britan. pa.* 119. The liberties of the *stannarie* men graunted by Ed. 1. before they were abridged by the statute, anno 50. Ed. 3. see in

*Plowden. casu Mines. fol. 327. a. b.*

*Staple* (*Stapulum*) signifieth this or that towne, or citie, whether the Merchants of England by common order, or commandement, did carie their wolles, wol-fels, cloathes, lead, and tinne, and such like commodities of our land for the vtterance of them by the great. The word may probably be interpreted two wayes: one taking it from (*staple*) which in the Saxon or old English language, signifieth the stay or hold of any thing. *Lamb.* in his duties of Constables. num. 4. because the place is certaine, and settled: and againe, from the French (*estape. i. forum vinarium*) because to those places, whether our English Merchants brought their commodities, the French would also meete them with theirs, which most of all consisteth in wines: but I thinke this latter the truer because I finde in the Mirrour of the world written in French these words. *A Calais y avoit Estape de le laine, &c.* Which is as much to say, as the staple for wols, &c. You may read of many places appointed for this staple in the Statutes of the land, according as the Prince by his Councell thought gaod to alter them, from the second yeare of Ed. 3. cap. 9. to the fifth of Edw:



the sixth. *cap.* 7. what officers the staples had belonging to them you may see *anno* 27. *Ed.* 3. *stat.* 2. *ca.* 21.

*Starre chamber* (*Camera stellata*) is a Chamber at *Westminster* so called (as *Sir Tho. Smith* coniectureth *lib.* 2. *cap.* 4.) either because it is full of windowes, or because at the first all the rooffe thereof was decked with Images of gilded starres. And the later reason I take to be the trewer, because *anno* 25. *H.* 8. *ca.* 1. It is written the Sterred Chamber. In this Chamber euery wecke twice during the terme, and the very next day after terme, is there a Court held by the Lord Chaunceler or Keeper, and other honourable personages of the Realme. This Court seemeth to haue taken beginning from the statute *anno* 3. *H.* 7. *ca.* pri. Whereby it is ordained, that the Lord Chaunceler and Treasurer of England for the time being, and the Keeper of the Kings priuy seale, or two of them, calling to them a Bishop, and a temporall Lord of the Kings most honourable Councell, and the two cheife Iustices of the Kings Bench, and common place, for the time being, or other two Iustices in their absence, should haue power to call before them, and punish such misdoers, as there be mentio-

ned. The faults that they punish, be *Routes*, *Riots*, *Forgeries*, *Main-tenances*, *Embraceries*, *Perjuries*, and such other *Misdemeanures* as are not sufficiently prouided for by the common law. It appeareth both by *Sir Tho. Smith lib.* 2. *de Rep. Anglo: cap.* 4. and by experience also, that at this day, the whole number of the Princes most honourable priuy Councell, and such other Barons spirituall, or temporall as be called thither by the Prince, haue place in this Court with those aboue named. Of this Court thus speaketh *M. Gwin* in the preface to his readings: It appeareth in our bookes of the termes of *K. Edward* 4. And of the report of cases hapning vnder the vsurpation of *Richard* the third that sometime the King and his Councell, and sometime the Lord Chaunceler, and other great personages, did vse to sit iudicially in the place then and yet called the *Starre Chamber*. But for as much as be like that assembly was not ordinary, therefore the next Kings, *Henry* the seventh, and his sonne. *H.* 8. tooke order by two severall lawes. *viz.* 3. *H.* 7. *ca.* pri. & 21. *H.* 8. *ca.* 2. That the Chaunceler assisted with others there named, should haue power to heare complaints against *Retainours*, *Embraceours*, *misdemeanures*

nures of officers, and such other offences, which through the power and countenance of such as do commit them, do lift vp the head aboue other faults: and for the which inferiour Iudges are not so meete to giue correction. And because that place was before dedicated to the like seruice, it hath bene euer since also accordingly v-sed. Touching the officers belonging to this Court, see *Camden. pag. 112. & 113.*

*Statute, (statutum)* hath diuers significations in our common lawe. First, it signifieth a *Decree* or *act of Parliament*, made by the Prince and three estates, which is the bodie of the whole Realme. And though it borow the name from that kind of Decree, which those cities, that were vnder the Romaine Empire, made for the particular gouernment of themselves, ouer and aboue the vniuersall or common lawe of the Empire: yet in nature it cometh nearest to that which the Romaines called (*legem*) for that, as that was made by the whole people noble and ignoble: so this is ordeined by those, that represent the whole number, both of prince, and subiects, one and other, through the whole kingdome. The difference neuerthelesse was

this, that *Lex* was offered to the consideration of the people by the Magistrate of the Senate, or Consull: but the bills or suggestions whence our statutes spring, are offered by any of either house, and so either passed or reiected. In this signification a statute is either generall or speciall. *Coke lib. 4. Hollands case, fol. 76. a.*

*Statute*, in another signification is a short speech taken for a bond; as statute Marchant, or statute staple. *anno 5. H. 4. cap. 12.* The reason of which name is, because these bonds are made according to the forme of statutes expressly, and particularly provided for the same; which direct both before what persons, and in what maner they ought to be made. *West. parte pri. symbol. li. 2. sect. 151.* where he defineth a statute Merchant thus. A statute Merchant is a bond acknowledged before one of the Clerks of the statutes Merchant, and Maior or chiefe Warden of the citie of London, or two Merchants of the said citie for that purpose assigned, or before the Maior, chiefe Warden, or Master of other Cities or good townes, or other sufficient men for that purpose appointed, sealed with the scale of the Depter, and of the King, which is of two peeces, the



greater is kept by the saide Maior, cheife Warden, &c. and the lesser peece thereof by the saide Clerks. The form of which bond, you may see in *Fleta. lib. 2. c. 64. §. 2.* to be such; *Noverint universi me. N. de tali comitatu tene-ri. N. in 10. marcis solvendis ei- dem ad festum Pent. anno regni Regis, &c. & nisi fecero, concedo quod currant super me & heredes meos districtio, & pena provisa in statuto domini Regis edito apud Westm. Datum London, tali die, an. supra dicto.* The fee for the same seale, is for statutes knowledged in Faires, for every pound an halfepeuy, and out of faires a farding. The execution vpon statute Merchant, is first to take the bodie of the Deptor, if he be lay, and can be found: if otherwise, then vpon his lands, and goods: The bound is founded vpon the statute, anno 13. Ed. pri. statut. 4. Of this also as of the statute Staple, see the newe booke of *Entries. verbo. Statut Merchant.* and reade in *Fleta ubi supra*, more touching this mater worth the reading.

*Statute staple* (to vse the very words of *M. West.*) is either properly so called, or improperly, A statute staple properly so called is a bond of Record knowledged before the Maior of the Staple, in the presence of one of the two

constables of the same staple, for which seale the fee is of every pound, if the summe exceed not a 100. poūd, an halfe peny, & if it exceed an 100. poūd, of every pound a farding. And by vertue of such statute Staple, the Creditor may forthwith haue execution of the body, lands & goods of the Depter. and this is founded vpon the statute anno 27. Ed. 3. cap. 9. A Statute Staple improper, is a bond of Record, founded vpon the statute anno 23. H. 8. cap. 6. of the nature of a proper statute staple, as touching the force, and execution thereof, and knowledged before one of the chiefe Iustices, and in their absence before the Maior of the staple, and Recorder of London. The formes of all these bonds, or statutes, see in *West. parie pri. simbol. li. 2. sect. 152. 153. 154. 155.* Statutes is also vsed in our vulgar talke, for the petit sessions, which are yearly kept for the disposing of seruants in seruice, by the statute, anno 5. Eliz. cap. 4. see *Recognisance.*

*Statute sessions*, otherwise called petit sessions, are a meeting in every hundred of all the shires in England, where of custome they haue beene vsed, vnto the which the constables doe repaire, and others both householders and seruants, for the de-

debating of differences between masters and their seruants, the rating of seruants wages, and the bestowing of such people in seruice, as being fit to serue, either refuse to seeke, or cannot get Masters, *anno 5. Eliz. cap. 4.*

*Statuto stapule*, is a writ that lieth o take his body to prison, and to seise vpon his lands and goods, that hath forfeited a bond, called statut staple. *Register orig. fol. 158. a.*

*Statutum de laborijs*, is a writ Iudiciall for the apprehending of such laborers, as refuse to worke according to the statut. *Register Iudiciall. fol. 27. b.*

*Statuto Mercatorio*, is a writ for the imprisoning of him, that hath forfeited a bond called the statut Merchant, vntill the debt be satisfied. *Register orig. fol. 146. b.* and of these there is one against lay persons, *ubi supra.* and another against Ecclesiasticall. 148.

*Stavifaker, staphis agria, vel herba pedicularis*, is a medicinal herb, the kinde and vertues whereof, you haue set forth in *Gerards herball, lib. 1. cap. 130.* The feede of this is mentioned among drugs to be garbled, *anno prim. Iacob. cap. 19.*

*Stennerie*, is vsed for the same that *Stannaries* be, in the statute *anno 4. H. 8. cap. 8.* see *Stannaries.*

*Sterling (Sterlingum)* is a proper epitheton for money current within the Realme. The name groweth from this, that there was a certain pure coyne, stamped first of all by the Earsterlings here in England. *Stoves Annalls. pag. 312.* The which I rather belecue, because in certaine old monuments of our English, and broken French, I finde it written *Esterling*. so *Ro. Hoveden* writeth it. *parte poster. annalium. fol. 377. b. M. Skene de verborum signif. verba. Sterlingus*, saith thus: sterling is a kinde of weight conteining 32. cornes, or graines of wheat. And in the Canon law mention is made of siue shillings sterling, and of a merke starling. *cap. 3. de arbitris. & c. constituit. 12. de procurator.* And the sterling peny is soe called, because it waighes so many graines, as I haue sundry times proued by experience. And by the law of England the peny which is called the sterling round and without clipping wayeth 32. graines of wheat without taitles, whereof 20. make an ounce, and 12. onnces a pound, and eight pound maketh a gallon of wine, and eight gallons make a bushell of London, which is the eight part of a quarter. Hitherto *M. Skene. Buchanan. lib. 6.* saith, that the common people thinke it so



termed, of sterling a towne in Scotland. Our *Lyndwood* saith that it is called sterling of the bird which we call a sterling which as he noteth, was ingrauen in one quarter of the coine so termed. *cap. Item quia. de testamentis. verbo. Centum solidos. in glos.*

*Stewes*, are those places, which were permitted in England to women of professed incontinencie, for the profer of their bodies to all commers: It is deriued from the French (*Estuues. i. therma, vaporarium, Balneum*) because wantons are wont to prepare themselves, to these venerous acts, by bathing themselves. And that this is not, newe, *Homer* sheweth in the 8. booke of his *Odiss.* where he reckoneth hot bathes among the effeminate sort of pleasures, Of these *stewes* see the statute anno 11. *Henric. 6. cap. pri.*

*Steward.* See *Seneschall* and *Steward*, *Steward* of the Kings house anno 25. *Ed. 3. statute. 5. ca. 21.*

*Stillyard* (*Gilda Theutonico-rum* anno 22. *H. 8. ca. 8. & anno 32. eiusdem ca. 14.*) is a place in London, where the fraternity of the *Easterling Merchants*, otherwise the *Merchants of Hanse* and *Almaine.* anno pri. *Ed. 6. cap. 13.* Are wont to have their abode. see *Geld.* It is so called

of a broad place, or court, wherein Steele was much sould. vpon the which that house is now founded. *Nathan Chitraus.* See *Hanse.*

*Stone of woll.* (*Petra lane*) see weights. See *Saxler.* It ought to weigh fourteene pounds, yet in some places by custome it is more. See *Cromptons Iustice of peace. fol. 83. b.*

*Strafe alias Stray.* See *Estre.*

*Straues* anno 18. *H. 6. ca. 16.*

*Streme workes*, is a kinde of worke in the *Stannaries*: for (saith *M. Camden* titulo *Cornwall pag. 119.*) *Horum Stannariorum sive metallicorum operum duo sunt genera: Alterum Lode-workes, alterum streme-workes vocant. Hoc in locis inferioribus est cum Fossis agendis stanni venas sectantur & fluniorum alueos subinde defleunt: illud in locis editioribus, cum in montibus puteos, quos Shafts vocant in magnam altitudinem defodiunt, & cuniculos agunt.* These you may read mentioned anno 27. *H. 8. ca. 23.*

*Stirke.*

*Strip.* See *Estreapement.*

*Stuard, alias steward* (*senescallus*) seemeth to be compounded of *Steede* and *ward*, and is a word of many applications: yet alway signifieth an officer of cheife accompte within the place of his sway. The greatest of these is the Lord high *Steward* of England, whose power (if those antiquities

ties be true which I haue read) is next to the kings, and of that heighth, that it might in some sort match the *Ephori* amongst the *Lacedemonians*. The custome of our commonwealth hath vpon great consideration and policie brought it to passe, that this high Officer is not appointed for any long time, but onely for the dispatch of some especiall businesse, at the arraignment of some Noble man in the case of treason, or such like: which once ended, his commission expireth. Of the high Steward of *Englands* Court, you may reade *Cromptons Jurisdiction*. fol. 82.

I haue reade in an auncient manuscript of what credit, I know not, that this officer was of so great power in auncient times, that if any one had sought iustice in the Kings Court and not found it, he might vpon complaint thereof made vnto him, take those petitions, and referring them to the next Parliament, cause them there to bee propounded, and not onely so, but also in the presence of the King openly to rebuke the Chaunceler, or any other Iudge, or officer whom he found defective in yeelding iustice. And if in case the Iudge, or officer so reprehended, did alledge, that his defect grew from the difficultie of the case, inso much as

he durst not aduenture vpon it: then the case being shewed, and so found, the Lord Steward together with the Constable of *England* there in the presence of the King and Parliament, might elect 25. persons, or more, or fewer, according to their discretion, and the case or cases in question, some Earles, some Barons, some Knights, some Citizens and Burgessees, which vpon deliberation should set downe, what they thought iust and equal: and their decree being read and allowed by Parliament, did stand as a law for euer: fardermore, if the Chaunceler or other Iudge or officer, could not well approue, that the delay of iustice complained of, grew from iust difficultie, by reason that the case in question was formerly determined by lawe or statute: then might the Steward on the Kings behalfe, admonish him of his negligence, and will him to be more carefull and studious. Or if there appeared malice, or corruption, then the King and Parliament was wont to remoue him and assigne another of better hope to the place. Lastly, if the king had about him any such euill Counseller, as aduised him to things vniust, or vnanswerable to his Maiestie, as tending either to the disherison of the



Crowne, publike hurt, or destruction of the subiect. The office of the Steward was, taking to him the Constable, and other great men, with some of the Commons, and giuing notice to the King of their intention, to send to that Counseler, and will him to desist from misleading the king, yea, if need so required, to charge him to stay no longer about him, but to depart from the Court, which if he neglected to performe, then they might send to the King, and will him to remoue him: and if the king refused, then they might take him as a publike enemy to the King and Realme, seise on his goods and possessions, and commit his body to safe custody, vntill the next Parliament, there to be Iudged by the whole kingdom: examples are brought of *Godwin Earle of Kent* in the time of King *Edward* next before the Conquerour, of *Hubert Burgh Earle of the same County*, in the reigne of *Henry the third*, and of *Peter Ganeston*, in *Edward* the seconds daies. But experience (as I said) hath found this officer more dangerous then profitable, and therefore hath time taught, though not wholly to suppress him, yet to limite him to particular occasion, and to reframe his power. Then is there the Steward of the Kings most

honourable houshold, *anno 24. H. 8. cap. 13.* whose name is changed to the name of *great Master. anno 32. eiusdem, cap. 39* But this statute was repealed by *anno prim. Mar. 2. Parliam. cap. 4* and the office of the Lord Steward of the Kings houshold reuiued: where you may at large reade diuers things touching his office. As also in *Fitzb. nat. br. fol. 241. B.* Of this Officers ancient power, reade *Fleta, lib. 2. cap. 3.* There is also a Steward of the *Marshalsea. pl. cor. fol. 52. & anno 33. H. 8. cap. 12.* To be short, this word is of so great diuersitie, that there is not a corporation of any accompt, or house of any honour, almost through the realme, but it hath an officer toward it of this name. A steward of a maner, or of a houshold, what he is or ought to be, *Fleta* fully describeth. *lib. 2. cap. 71. & 72.*

*Straunger*, commeth of the French (*estranger. i. alienare.*) It signifieth in our Language generally a man borne out of the land or vnknowne: but in the lawe, it hath an especiall signification for him that is not priue or a party to an act: as a *Straunger* to a iudgement: *old na. br. fol. 128.* is he to whome a iudgement doth not belong. And in this signification it is directly contrarie to (*partie*) or (*privie.*)

(*prinie.*) See *Prinie.*

*Submarshall*, (*submarecallus*) is an officer in the Marshalllea, that is, deputie to the chiefe Marshall of the Kings house, commonly called the Knight Marshall, and hath the custody of the prisoners there. *Cromptons Iurisdic. fol. 104.* He is otherwise called *Vnder-marshall*.

*Subpœna*, is a writ that lyeth to call a man into the Chauncerie, vpon such case onely, as the common lawe faileth in, and hath not provided for: so as the partie who in equitie hath wrong, can haue none ordinary remedie, by the rules and course of the common lawe, *West. part. 2. symbol. titulo Proceedings in Chauncerie. sect. 18.* where you may reade many examples of such cases, as *sub pœna* lyeth in. There is also a *sub pœna ad testificandum*, which lyeth for the calling in of witnesses to testifie in a cause, as well in Chauncerie, as in other courts. And the name of both these proceede from words in the writ, which charge the partie called to appeare at the day and place assigned, *sub pœna centum librarum, &c.* I find mention of a common *sub pœna* in *Cromptons Iurisdic. fol. 33.* which signifieth nothing else but such a *sub pœna*; as every common person is called by into the Chauncerie: whereas any

Lord of Parliament is called by the Lord Chauncelers letters: giuing him notice of the suit intended against him, and requiring him to appeare. *Crompton. eodem.*

*Subsidie*, (*subsidium*) cometh of the French (*subsidi*) signifying a taxe or tribute assessed by Parliament, and graunted by the commons to be leuiued of euery subiect, according to the value of his lands or goods after the rate of 4. shillings in the pound for land, and 2. shillings 8. pence for goods, as it is most commonly vsed at this day. Some hold opinion, that this subsidie is graunted by the subiect to the Prince, in recompence or consideration, that whereas the Prince of his absolute power, might make lawes of himselfe; he doth of fauour admit the consent of his subiects therein, that all things in their owne confession may be done with the greater indifferencie. The maner of assessing euery mans lands or goods, is this: first, there issueth a Commission out of the Chauncerie to some men of honour or worship in euery Countie, by vertue thereof to call vnto them, the head Constables or Bayliffes of euery Hundred, and by them the Constable and three or foure of the substantiallest



householders in euery towne within their hundred at a day certaine which men so called, or so many of them, as the Commissioners thinke good to vse, do rate the inhabitants of their owne towne, in such reasonable maner, as they find meete, yet by the discretion of the said Commissioners. And then euery man after his value set downe, must at his time pay to the Collectour appointed, after the rate aforesaid. Yet in auncient time, these subsidies seeme to haue beene graunted both for other causes, as in respect of the Kings great trauell, and expences in warres: or his great fauours toward his subiects: as also in other maner then now they be: as euery ninth Lambe, euery ninth fleece, and euery ninth sheafe. *anno 14. Ed. 3. stat. prim. cap. 20.* And of these you may see great varietie in *Rastals Abridgement. tit. Taxes, Tenths, Fifteenths, Subsidies, &c.* whence you may gather that there is no certaine rate, but euen as the two houses shall thinke good to conclude. Subsidie is in the statute of the land, sometime confounded with custome. *anno 11. H. 4. cap. 7. See Beneuolence.*

*Suretie of peace, (securitas pacis)* is an acknowledging of a bond to the Prince, taken by a competent Iudge of Record, for the

keeping of the peace. *Lamberds Eirenarcha, li. 2. cap. 2. pag. 77.* This peace may a Iustice of peace commaund, either as a Minister, when he is willed so to doe by a higher authoritie, or as a Iudge, when he doth it of his owne power deriued from his commission. Of both these see *Lamberd, Eirenarcha. lib. 2. ca. 2. pag. 77. see Peace, see Supplicavit.*

*Suffragan (Suffraganeus)* is a titular Bishop ordeined, and assisted to aide the Bishop of the Dioces in his spirituall function. *c. Suffraganeus. Extra de electione.* For the Etimology, *Suffraganei dicuntur, quia eorum suffragiis causa ecclesiastica indicantur. Ioach. Stephanus de Iurisd. li. 4. ca. 16. nu. 14.* It was enacted *anno 26. H. 8. ca. 14.* that it should be lawfull to euery Diocesan at his pleasure to elect two sufficient men within his Dioces, and to present them to the King, that he might giue the one of them such title, stile, name, and dignity of seafe in the saide Statut specified, as he should think conuenient.

*Snyse (Secta)* commeth of the French (*Suite. i. affectatio, consecutio, sequela, comitatus*) It signifieth in our common law, a following of another, but in diuers senses, the first is a suite in

in lawe, and is diuided into suite reall, and personall. *Kitchin, fol. 74.* which is all one with action reall and personal. Then is there suite of Court, or suite seruice; that is an attendance which a tenent oweth at the court of his Lord. *Fitzh. nat. br. in Indice. verbo Suite. suite seruice* and *suite reall*, anno 7. H. 7. cap. 2. The newe expositour of lawe Termes, maketh mention of foure sorts of suites in this signification. Suite couenant, suite custom, suite reall, and suite seruice. *Suite couenant*, he defineth to be, when your auncester hath couenanted with mine auncester, to siew to the court of mine auncesters. *Suite custome*, when I and mine auncesters haue beene seised of your owne, and your auncesters suite, time out of minde, &c. *Suite reall*, when men come to the Shyreuees Turne, or Leete, to which court all men are cōpelled to come, to knowe the lawes, so that they may not be ignorant of things declared there, how they ought to be gouerned. And it is called reall, because of their allegiance. And this appeareth by common exeperience, when one is sworne: his oath is that he shall be a loyall and faithfull man to the King. And this suite is not for the land that he

holdeth within the Countie but by reason of his person and his aboade there, and ought to be done twice a yeare: for default whereof he shall be amerced and not distreined. I thinke this should be called rather regall or royall, because it is performed to the King for (royall). The French word in the vsuall pronuntiation cometh neere to reall, the letter (o) being almost suppressed. see *Leete. Suite seruice*, is to siew to the Shyreuees Turn or Leete, or to the Lords court from three weekes to three weekes by the whole yeare. And for default thereof a man shall be distreined, and not amerced. And this suite seruice is by reason of the tenure of a mans land. Then doth suite signifie the following of one in chace, as fresh suite. *West. 1. c. 46. a. 3. Ed. 1.* Lastly, it signifieth a petition made to the prince, or great personage.

*Suite of the Kings peace* (*secta pacis Regis*) anno 6. R. 2. stat. 2. ca. pri. & anno 21. eiusdem, cap. 15. & anno 5. H. 4. cap. 15. is the persiewing of a man for breach of the K. peace, by treasons, insurrections, rebellions, or trespasses.

*Summonens*, is a writ Iudiciall of great diuersitie, according to the diuers cases wherein it is vsed, which see in the table of the Register Iudiciall.



*Summoner* (*summonitor*) signifieth one vsed to call or cite a man to any court. These by the common lawe, ought to be *boni*, that is by *Fleta* his Iudgement, *liberi homines & ideo boni, quia terras tenentes, quod sint coram talibus Iusticiariis ad certos dies, & locum secundum mandatum Iusticiariorum vicecomitis directum, parati inde facere recognitionem.* lib. 4. cap. 5. s. *Es cum.*

*Summons* (*Summonitio*) see *Summons*. Common *Summons*. *Marlb.* cap. 18. anno. 52. *Henric.* 3. is l.

*Summons in terra petita.* *Kitch.* fol. 286. is that summons which is made vpon the land, which the party at whose suite the summons is sent forth, seeketh to haue, *Summons ad Warrantizandum.* *Dyer* fol. 69. *nn.* 35.

*Sumage* (*Summagium*) seemeth to be tolle for cariage on horseback, *Crompton Iurisd.* fol. 191. For where the Charter of the *Forest*, cap. 14. hath these wordes for a horse that beareth loades euery halfe yeare, a halfe penny. the booke called *Pupilla oculi*, vseth these wordes: *pro vno equo portante summagium, per dimidium annum obolum.* It is otherwise called a *Seame*. And a *Seame* in the Westerne parts is a horse load.

*Superoneratione pastura*, is a writ Iudiciall that lyeth against

him who is impleaded in the County for the overburdening of a common with his catell, in case where he is formerly impleaded for it in the countie, and the cause is remooued into the Kings court at *Westm.*

*Superfedeas*, is a writ which lieth in diuers, and sundry cases, as appeareth by the table of the Register originall, and the Iudiciall also, and by *Fitzh. nat. br.* fol. 236. and many other places noted in the Index of his booke verbo, *Superfedeas*. But it signifieth in them all a command, or request to stay or forbear the doing of that, which in appearance of law were to be done, were it not for the cause, wherevpon the writ is graunted. For example: a man regularly is to haue surety of peace against him, of whome he will sweare that he is afraide, and the Iustice required herevnto cannot denie him. Yet if the party be formerly bound to the peace, either in Chauncerie, or else where: this writ lyeth to stay the Iustice from doing that, which otherwise he might not denie.

*Superstatutum*, *Ed. 3.* vers *servants and labourers*, is a writ that lyeth against him, who keepeth my seruant departed out of my seruice against lawe. *Fitzh. nat.* fo. 167.

*Super statuto de York quo nul  
sera vicellor, &c.* is a writ lying  
against him, that occupieth vit-  
teling either in grosse or by  
retaille in a Citie, or Borough  
towne, during the time he is  
Maior, &c. *Fitzh. natur. bre. fol.*  
*172.*

*Super statuto, anno pri. Ed. 3.*  
*cap. 12. & 13.* is a writ that  
lyeth against the Kings Tenent  
holding in cheife, which aliena-  
teth the kings land without the  
Kings license. *Fitzh: nat. br.*  
*fol. 175.*

*Super statuto facto pour sene-  
shall & Marshall de Roy, &c.*  
is a writ lying against the Ste-  
ward, or Marshall for holding  
plee in his court of freehold,  
or for trespassse, or contracts not  
made within the Kings hous-  
hold. *Fitzherbert nat. breu.*  
*fol. 241.*

*Super statuto de Articulis Cleri,*  
*cap. 6.* is a writ against the Shy-  
recue, or other officer, that dis-  
treineth in the Kings high way,  
or in the glebe land aunciently  
given to Rectories. *Fitzh. nat.*  
*br. fol. 173.*

*Super prerogatiua Regis, cap. 3.*  
is a writ lying against the kings  
widow for marrying without his  
licence. *Fitzherbert. nat. br. fol.*  
*174.*

*Supplicavit,* is a writ issuing  
out the Chauncerie for taking  
the surety of peace against a

man. It is directed to the Iustices  
of peace of the county, and  
the Shyreue: and is grounded  
vpon the statute, *anno pri. Ed. 3.*  
*cap. 16.* which ordeineth that  
certaine persons in chauncerie  
shalbe assigned to take care of  
the peace, See *Fitzh. nat. br. fol.*  
*80.* This writ was of old called  
*Breve de minis*, as *M. Lamberd*  
in his *Eirenarcha* noteth out of  
the *Register original*, *fol. 88.*

*Surcui in vita*, is a writ that  
lyeth for the heire of that wo-  
man, whose husband hauing ali-  
enated her land in fee, shce  
bringeth not the writ *Cui in vita*  
for the recovery of her owne  
land. for in this case her heire  
may take this writ against the  
tenent after her deceale. *Fitzh.*  
*nat. br. fol. 193. B.*

*Surgeon*, commeth of the  
French (*Chirurgien. i. Chirurgus,*  
*vulnerarius*) signifying him that  
dealeth in the mechanickall parte  
of phisicke, and the outward  
cures performed with the hand.  
The French word is compound-  
ed of two greeke words (*χειρ.*  
*i. manus*) and *εργον. i. opus*)  
And therefore are they not al-  
lowed to minister inward medi-  
cine. See the statut. *32. H. 8.*  
*ca. 4.* and *M. Portions new*  
*abridgement, titulo Surgeons.*

*Surcharger of the forest*, is he  
that doeth common with more  
beasts in the forest, then he



hath right to common with-  
all. *Manwood*, parte 2. of his  
foreſt lawes. cap. 14. nu. 7.

*Surplusage* (*surplusagium*) com-  
meth of the French (*surplus .i. co-  
rollarium, additamentum*) It signi-  
fieth in the common law, a super-  
fluity or addition more then  
needeth, which sometime is a  
cause that a writ abateth. *Brooke,*  
*cinle, Nugation & Superfluity*, fol.  
100. *Plowden casu Diue, contra*  
*Mawingham*, fol. 63. b. It is some-  
time also applied to mater of ac-  
counpt, and signifieth a greater  
disbursement, then the charge  
of the accounptant amounteth  
vnto.

*Surreinyder*, is thus defined by  
*West. parte 2. symb. titulo. Supplica-  
tions. sect. 57.* A *Surreinyder*, is a  
second defence of the plaintifes  
actiō, opposite to the *Defendants*  
*Reinyder*. And therefore (as he  
saith) *Hotoman* calleth it *Tripli-  
cationem, quæ est secunda alteris de-  
fensio, contra Rei duplicationem op-  
posita*. Not *Hotoman* onely calleth  
this *triplicationem*: but the Empe-  
rour himselfe. *De Replicationibus,*  
*libro. 4. Institut: titulo. 14.*

*Surrender* (*sursum redditio*) is  
an Instrument testifying with apt  
words, that the particular tenant  
of lands, or tenements for life or  
yeares, doth sufficiently consent  
and agree, that he which hath  
the next or immediate Remain-  
der, or Reuerſion thereof, shall

also haue the particular estate of  
the same in possession: and that  
he yeeldeth, and giueth vp the  
same vnto him. For euery sur-  
render ought forthwith to  
giue a possession of the things  
surrendred. *West. parte pri: lib. 2.*  
*sectio. 503.* where you may see  
diuers presidents. But there may  
be a surrender without writing.  
And therefore there is said to be  
a surrender in deede, and a sur-  
render in law. A surrender in  
deede, is that which is really and  
sensibly performed. Surrender in  
law is in intendment of law by  
way of consequent, and not ac-  
tuall. *Perkins Surrender. 606. &*  
*seqq.* as if a man haue a lease of a  
ferm, & during the terme, he ac-  
cept of a new lease, this act is in  
law a surrender of the former.  
*Coke. vol. 6. fo. 11. b.*

*Surſiſe* (*superſiſa*) anno 32. H. 8.  
ca. 48. seemeth to be an especi-  
all name vsed in the Castle of  
Doner, for such penalties, and  
forfeitures, as are laid vpon those  
that pay not their duties or rent  
for Castleward at their daies. *a.*  
32. H. 8. ca. 48. *Bract.* hath it in a  
generall signification *lib. 5. tract.*  
3. ca. 1. nu. 8. and *Fleta lib. 6. ca.*  
3. in prin.

*Surueiour* (*superuiſor*) is com-  
pounded of two French words  
(*sur .i. super*) and *voir .i. cernere*  
*intueri, despicere, prospicere, videre*)  
It signifieth in our common law,  
one

one that hath the ouerseeing or care of some great personages lands, or works. As the *Surueiour* generall of the Kings manners. *Cromptons Iurisd. fo. 106.* And in this signification it is taken *anno 33. H. 8. cap. 39.* where there is a court of Surueiours erected. And the Surueiour of the Wards and Liueries. *West par. 2. symbologr. titulo Chaucery: sect: 136.* which officer is erected *anno 33. H. 8. ca. 22.* who is the second officer by his place in the court of wards and Liueries, assigned and appointed by the king. His office seemeth especially to consist in the true examination of the lands belonging to the Kings wards, that the King be not deceiued. At the entrance into his office, he taketh an oath ministred vnto him by the Master of that Court, which see *an. 33. H. 8. cap. 39.*

*Surueiour of the Kings exchange,* *anno 9. H. 5. stat. 2. ca. 4.* was an officer, whose name seemeth in these daies to be changed into some other. For I cannot learne that there is any such now.

*Suruiour*, is compounded of two French words (*Sur. i. super*) and *uiure. i. astatem agere, viuere*) whence also comineth the compound (*Suruiure. i. superesse*) It signifieth in our common law, the longer liuer of two ioynt tenants. See *Brooke, titulo Ioynt te-*

*nents, fol. 33.* or of any two ioyned in the right of any thing.

*Suspension* (*Suspensio*) is vsed for a temporall stop of a mans right, and differeth from extinguishment in this, that a Right of Estate suspended reuiueth againe, but extinguished it dyeth for euer. *Brooke, titulo Extinguishment and Suspension. fol. 314.* Suspension is also vsed in our common lawe, sometimes as it is vsed in the Canon lawe, *pro minori excommunicatione.* As *anno 24. H. 8. cap. 12.* See *Excommunication.*

*Suspirall*, seemeth to be a spring of water passing vnder the ground, toward a conduit or cesterne. *anno 35. H. 8. ca. 10.* and to be deriued from the Latine (*suspirare*) or the French (*souspirer*) i. *ducere suspiria.* And indeed the word it self is French for (*souspiral*) in that tongue, signifieth (*spiramentum caerna*) the mouth of a caue or den: or the tunnell of a chimney.

*Swainmot*, alias *Swanmote*, (*Swainmotum*) signifieth a Court rouching maters of the Forest kept by the Charter of the Forest, thrice in the yeare: *anno 3. Henr. octau. cap. 18.* it is called a *Swannie-mote*: what things be inquirable in the same, you may reade in *Cromptons Iurisd. fol. 180.* who saith that this court of *Swainmote* is as incident



cident to a Forest, as the court of Piepowder is to a faire, with whome agreeth *M. Manwood parte pri. of his Forest lames, pag. 144.* The word seemeth to be compounded of (*Swain*) and (*mot*) or (*Gemot*). For swaine, as *M. Manwood* saith *ubi supra, pag. 111.* in the Saxons tongue signifieth a *Bockland* man, which at this day is taken for a Charterer, or freeholder: and (*Gemot*) as *M. Lamberd* saith in his explication of Saxon words, *verbo Conventus*, is *Conventus*, wherevpon it is to be noted, as he saith in the same place, that the Swainemote is a court of freeholders within the Forest. Of the which you may reade him at large, *pag. 110. &c. usque 122.*

## T

**T**abling of fines, is the making of a table foreuery countie, where his Maiesties writ runneth, containing the contents of euery fine, that shall passe in any one terme, as the name of the Countie, townes, and places, wherein the lands or tenements mentioned in any fine, do lye, the name of the plaintiffe and Deforceant, and of euery manner named in the fine. This is to be done properly by the *Chirographer* of fines of the com-

mon plees: who the first day of the next terme after the engrossing of any such fine, shall fixe euery of the said tables in some open place of the court of Common plees: and so euery day of the said terme during the sitting of the said court. And the said Chirographer shall deliuer to the Shyreue of euery Countie, his Vndershyreue or Deputie, faire written in parchment, a perfect content of the table so to be made for that shire, in the terme that shall be next before the Assises to be holden in the same countie, or else in the meane time betweene the terme, and the said assises, to be set vp the first day, and euery day of the next assises, in some open place of the Court, where the Iustices of Assises then shall sit, to continue there so long, as they shall sit in the said court. If either the Chirographer, or Shyreue faile herein, he forfeiteth five pounds. And the Chirographers fee for euery such table is foure pence. *anno 23. Elizab. cap. 3.* This saith, *West. parte 2. symbol. titulo. Fines. sect. 130.*

*Taile* (*Tallium*) commeth of the French (*taile .i. Sectura*) or the verb (*tailler .i. scindere*) signifying in our common law two seuerall things, both grounded vpon one reason, *Plowden, casu Wil-*  
*lion,*

tion, fol. 251. a. b. First it is vsed for the fee, which is opposite to fee simple: by reason that it is so (as it were) minced, or pared, that it is not in his free power to be disposed of him which owneth it: but is by the first giuer cut, or diuided from all other, and tyed to the issue of the Donee. *Cooke lib. 4. in proemio.* And this limitation, or taile, is either generall, or speciall. *Taile generall* is that, whereby lands, or tenements are limited to a man, and to the heires of his body begotten. And the reason of this terme is, because how many soeuer women, the tenent houlding by this title, shall take to his wiues, one after another in lawfull matrimony; his issue by them all, haue a possibility to inherit, one after the other. *Taile speciall* is that, whereby lands, or tenements be limited vnto a man and his wife, and the heires of their two bodies begotten: because if the man bury his wife before issue, and take another: the issue by this second wife cannot inherit the land, &c. Also if land should be giuen to a man and his wife, and to their sonne and heire Iohn, for euer: this is taile especiall. See more of this in fee. and *Littleton lib. pri. ca. 2.* and the new booke of *Entries. verbo Taile.* *Taile* in the other signification, is that which we vulgarly call a

Tallie. For it is *une taille de bois* a clouen peece of wood to nick vp an account vpon, for in the statute *anno 10. Ed. pri. cap. 11.* and *anno 27. eiusdem. stat. pri. ca. 2.* it is termed a *Taile*, and *anno 38. Ed. 3. cap. 5.* And so in Brooke his *Abridgement, titulo. Taile d' Exchequer fol. 247.* See *Tayles.*

*Tailles (tallie)* are in these daies called *Talleyes*, well knowne what they be. Of these read in our statutes two sorts, to haue bene vsuall in the Exchequer for a long continuance. The one is termed *tayles of debt*, *anno 1. R. 2. cap. 5.* which are a kind of acquittance for debt payde in to the king. For example, the Vniuersitie of *Cambridge* payeth yearly ten pounds, for such things as are by their Charter graunted them in fee ferme, five pounds at the Annunciation and five at Michaelmas. He that payeth the first five pounds, receiueth for his discharge a taile or taley, and he that payeth the other five, receiueth the like. With both which, or notes of them, he repayreth to the Clerke of the Pipes office, and there in steede of them receiueth an acquittance in parchment for his whole discharge. Then be there also mentioned *tayles of reward*, *anno 27. H. 8. cap. 11.* & *anno 33. & 34. eiusdem. ca. 16.* and *anno 2. & 3. Ed. 6. ca.*



4. And these seeme to be tales, or talyes of allowances, or recompence made to Shyreuees for such maters, as to their charge they haue performed in their office, or for such monies as they by course haue cast vpon them in their accompts, but could not leaue thē where they were due. And these, as it seemeth by the said statute, *anno 27. H. 8. cap. 11.* were of old graunted in the Exchequer vnto them, vpon warrant made to the Treasurer and Chamberlaines there, by the Clerkes of the signet vpon bill assigned by the King. But sithence the statute *anno 2. & 3. Ed. 6. cap. 4.* what the course in this case is, I am not so well informed. Only I heare, that for some countiees these talyes be still in vse, and that the warrant commeth now from the Auditour of the receipts, vnto those that make these taleys. And that the Shyreuee with them proceedeth to those who take his finall accompt, and there hath his allowance accordingly.

*Taylage* (*tallagium*) *alias*, *Tallage*, commeth of the French (*taille*) which originally signifieth a peece cut out of the whole: and metaphorically is vsed for a share of a mans substance payed by way of tribute.

It signifieth with vs a colle, or taxe, as *anno pri. Ed. 2. cap. unico.* And *Stowes Annals. pag. 445.* Thence commeth *Tailagiers* in *Chawcer* for taxe, or tolle gatherers.

*Taint* (*Atimētus*) commeth of the French (*teint. i. infectus, tinctus*) and signifieth either substantiuelly a conviction, or adiectiuely a person convicted of felonie or treason, &c. See *Ataint.*

*Tales*, is a latine word of knowne signification: It is vsed in our common lawe, for a supply of men empaneled vpon a iury or enquest, and not appearing, or at their apparence, chalenged by the partie, or either partie, if there be two, as not indifferent. for in this case, the Iudge vpon petition graunteth a supply to be made by the Shyreuee of some men there present, equall in reputation to those that were impaneled. And herevpon the very act of supplying is called a *Tales de Circumstantibus*. This supply may be one or more, and of as many as shall either make defaulte, or els be chalenged by each party. *Stampl. cor. lib. 3. ca. 5.* How be it, he that hath had one *Tales*, either vpon default or challenge: though he may haue another,

ther, yet he may not haue the later to conserue so many as the former, for the first Tales must be vnder the principall panell, except in a cause of Appeale, and so euery Tales lesse then other, vntill the number be made vp of men present in courte, and such as are without exception to the partie, or parties. Of this see *Stawnsford* more at large *ubi supra*. where you may finde some exceptions to this generall rule. These commonly called (*Tales*) may in some sort, and in deede are called (*Meliores*) viz. when the whole Iurie is chalenged, as appeareth by *Brooke*, titulo. *Octo sales & anser sales*, fol. 105. In whome you may likewise read many cases touching this mater.

*Tales*, is the proper name of a booke in the Kings bench office. *Coke lib. 4. fol. 93. b.*

*Tallage*. See *Taylage*.

*Talshide*. See *Talwood*.

*Talwood*, v. anno 34. & 35. *Henric. octau. capit. 3. & anno 7. Ed. 6. ca. 7. & 43. El. cap. 14. Talshide. ibidem.* It is a long kinde of shide riuen out of the tree, which shortened is made into billets.

*Tartaron*, anno 12. *Ed. 4. cap. 3. & anno 4. H. 8. cap. 6.*

*Tasels*, anno 4. *Ed. 4. cap. 1.* is a kinde of hard burre vsed by

clothiers and cloth workers in the dressing of cloth.

*Task*, alias *Taxe*, by *M. Camden* following the authoritie of *Doctor Powell* (whome he greatly commendeth for his diligence in the search of antiquities) is a Britishe word signifying tribute. *Camden. Britan. pag. 304.* And it seemeth, it is such a kinde of tribute, as being certainly rated vpon euery towne, was wont to be yearely paide. See *Gild*, and the places there cited out of *M. Camden*. Now is it not paide, but by consent giuen in Parliament, as the *Subsidie* is. And it differeth from *Subsidie* in this, that it is alway certaine, accordingly as it is set downe in the *Chequer booke*, and leuied in generall of euery towne, and not particularly of euerie man. Lastly, it is a fiftenth of that substance, that euery town was first rated at, by the number of hides of land in the same. Wherevpon it is also called a fiftenth v. anno 14. *Ed. 3. stat. 1. cap. 20.* for whereas *M. Crompton* in his *Iurisdictions*, fol. saith that it is leuied sometime by goods, as well as by lands, as also appeareth by the statute, anno 9. *H. 4. ca. 7.* I take his meaning there to be, that though the task in the



whole were at the first by the Prince proportioned by the land: Yet the townes men among themselues to make vp that summe, are at these daies sometime valued by goods. See *Fifteenth*. It seemeth that in ancient times, this task was imposed by the king at his pleasure, but *Edward* the first, anno 25. of his raigne, bound himselfe, and his successours from that time forward; not to leuie it but by the consent of the Realme. anno 25. *Ed. pri. cap. 5.* The word Task may be thought to proceede from the French (*Taux* aliis *Taxe*. i. *estimatio, pretium*) for we call it also *Taxe*: but ouer curiously to contend in these derivatiōs, may seeme frivoulous, cōsidering that many words are common to diuers peoples.

*Telonium*, or *Brene essendi quietum de Telonio*, is a writ lying for the Citizens of any Citie, or Bourgeses of any towne that haue a Charter, or prescription to free them from Tolle, against the officers of any town, or market constraining them to pay Tolle of their Merchandise, contrary to their said graunt or prescription. *Fitzb. nat. br. fol. 226. Hotoman lib. 2. commentariorum in feuda, cap. 56. vers. Vectigalia*, hath these words: *Telonio autem dicuntur, publicanorum stationes in quibus vectigalia*

*recipiunt: sed apud istius generis scriptores, Telonium dicitur vectigal, quod pro pontium aut riparum munitione penditur: & plerumq; a principibus solius exactionis causa, imperatur.*

*Team*, aliis *Theam*, is an old Saxon word, signifying a Royalty granted by the Kings charter, to a Lord of a maner. *Bracton li. 3. tracta. 2. ca. 8.* of this *Saint Edwards lawes*, nu. 25. say thus. *Quod si quisquam aliquid interciat (id est, penes alium defendat) super aliquem, & interciatus, non poterit warantum suum habere, erit forisfactura sua, & Iusticia similiter de calumniatore, si defecerit.* *M. Skene de verborum significatione verbo Theme*. saith, that it is a power to haue seruants and slaues, which are called *nativi, bondi, villani*, and all Baronies infeofed with *Theme*, haue the same power. For vnto them all their bondmen, their children, goods and cattels, properly appertaine: so that they may dispose of them, at their pleasure. And in some old authentike bookes it is written. *Theme est potestas habendi nativos, ita quod generationes villanorum vestrorum, cum eorum catallis, ubicunq; inueniantur, ad vos pertinent, Theme* commeth from *Than* .i. *seruus*, and therefore some time signifieth the bondmen, and slaues, according to an old statute and law. *De curia de The-*

me. Quod si quis teneat curiam de Theme, & illa querela in illa curia mouetur, ad quam Theme vocatur: non debet illa curia elongari, sed ibidem determinari, & omnes Theme ibi compareant. Which is vnderstoode of the question of liberty, when it is in doubt, whether any person be a bondman or free man. Which kinde of proces should not be delayed but summarily discided. And the new expositor of law terms. speaketh to the like effect, *verbo Them.* I read it also in an ould paper written by an exchequer man thus translated: *Theam. i. propago villanorum.*

*Teller*, is an officer in the Eschequer, of which sort their be foure in number. And their office is, to receiue all monies due to the King, and to giue to the clerk of the Pel a bill to charge him therewith. They also pay to all persons, any money payable vnto them by the King, by warrant from the auditour of the receipt. They also make weekly and yearly bookes both of their receipts & payments, which they deliuer to the L. Treasurer.

*Templers (Templarii)* See *Knights of the Temple*. These whil lest they florished here in England, which seemeth to be all that time betweene Henry the seconds daies, vntill they were suppressed, had in euery nation a particular gouernour, whom

*Brac. calleth Magistrū militia Tēpli: l. 1. c. 10.* Of these read *M. Cam.* in his Br. p. 20. See *Hospitalers.*

*Temporalities of Bishops (Temporalia Episcoporum)* be such reuenues, lands, and tenements, as Bishops haue had laid to their Sees by the Kings and other great personages of this land from time to time, as they are Barons, and Lords of the Parlatment. See *Spiritualties of Bishops.*

*Tend*, seemeth to signifie, as much as to indeuour, or offer, or shew forth, to tend the estate of the party of the Demaundant, *old n. br. f. 123. b.* to tend to trauers. *Stawnf. pr. rog. fol. 96.* to tend an auertment. *Britton, cap. 76.*

*Tender*, seemeth to come of the French (*Tendre. i. tener, delicatus*) and being vsed adiectiuely, signifieth in english speech, as much as it doth in French. But in our common law, it is vsed as a verb: and betokeneth as much, as carefully to offer, or circumspectly to indeuour the performance of any thing belonging vnto vs: as to tender rent, is to offer it at the time and place where and when it ought to be paid. To tender his law of *non Summons. Kitch. fo. 197.* is to offer himselfe ready to make his law, whereby to prooue that he was not summoned. See *law.* See *make.*

*Tenementis legatis*, is a writ



that lyeth to *London*, or other corporation, where the custome is, that men may demise tenements by their last will, as well as their goods and catels, to whome they list, for the hearing of any controuersie touching this mater, and for the rectifying of the wrong. *Regist. orig. fol. 244. 6.*

*Tenant*, aliàs, *tenent*, (*tenens*) commeth either of the Latine (*tenere*) or of the French (*tenir*) and signifieth in our common lawe, him that possesseth lands, or tenements by any kind of right, be it in fee, for life, or for yeares. This word is vsed with great diuersitie of Epithits in the lawe, sometime signifying or importing the efficient cause of possession, as *tenent* in *Dower*: which is shee, that possesseth land, &c. by vertue of her *Dower*. *Kitchin, fol. 160.* *Tenant per statute Merchant. Idem, fol. 172.* that is, he that holdeth land by vertue of a statute forfeited vnto him. *Tenant in franck marriage. Kitchin, fol. 158.* viz. he that holdeth land or tenement by reason of a gift thereof made vnto him vpon marriage, betweene him and his wife. *Tenant by the courtesie. Idem, fol. 159.* i. he that holdeth for his life by reason of a child begotten by him of his wife being an inheritrix, and borne aliue. *Te-*

*nant per elegit. Idem, fol. 172.* i. he that holdeth by vertue of the writ termed *Elegit. Tenent in mortgage. idem, fol. 38.* is he that holdeth by vertue of a mortgage or vpon condition, that if the lessour pay so much money at such a day, that he may enter, and if not, that the lessee shall haue a fee simple, fee tayle, or free hould. Sometime these Epithites import the maner of admittance: as *tenent* by the verge in auncient demesne. *Idem, fol. 81.* is he that is admitted by the rod in a court of auncient demesne. Sometime the euidence, that he hath to shew for his estate: as *Tenant by copy of court rolle*, which is one admitted *Tenant* of any lands, &c. within a maner, that time out of the memorie of man, by the vse and custome of the said maner, haue bene demisable, and demised to such as will take the same in fee, fee-tayle, for life, yeares, or at will, according to the custome of the said maner. *West parte prim. sym. lib. 2. fe. 646.* whom reade more at large. Againe, *Tenant by charter*, is he that holdeth by feofment in writing or other deede. *Kitchin, fol. 57.* Sometime these Epithites signifie that dutie which the *tenent* is to performe by reason of his tenure. As *Tenant by Knights service*, *Tenant in socage*, *Tenant in burgage*, *Tenant*

in frank fee, Tenent in villenage. Sometime they import the estate of the tenent, or his continuance in the land, as Tenent in fee simple. *Kitchin, fol. 150.* Tenent in fee taile, *Idem fol. 153.* Tenent for life, and tenent for yeares: *Idem, fol. 163.* Tenent at the will of the Lord according to the custome of the maner. *Idem fol. 132. & 165.* Tenent at will by the common law. *Idem, eodem.* Tenent vpon sufferance. *Idem, fol. 165.* Tenent of state of inheritance. *Stawf: prerog. fol. 6.* Sometime they containe a relation toward the Lord of whom he houldeth, as Tenent in cheife .i. he that houldeth of the King in the right of his crowne. *Fitz. nat. br. fol. 5. F.* Tenent of the King, as of the person of the King. *Idem, eodem.* or as of some honour. *eodem:* Very tenent .i. he that houldeth immediately of his Lord. *Kitchin fol. 99.* For if there be Lord *Mesn.* and Tenent, the Tenent is very Tenent to the *mesn.* but not to the Lord about. Tenent parauaile, *pl. cor. fo. 197. & Fitzb. nat. br. fol. 136.* D. is the lowest tenent, and fardest distant from the Lord Paramount. It seemeth to be tenent per auaille. See *Diers commentaries fol. 25. nu. 156.* Noe tenent in right to the Lord, but Tenent as for the ayowrie to be made, *Littleton, fol. 96.* Sometime they

haue a relation betweene Tenents, and Tenents in severall kindes, as ioynt tenents .i. they that haue equall right in lands and tēements, and all by vertue of one title. *Littleton, li. 3. ca. 3.* Tenents in common, be they that haue equall right, but hold by diuers titles, as one or more by gift or descent, and others by purchase. *Idem, eod. cap. 4.* Particular tenent. *Stawf. prerog. fol. 13.* that is, he which holdeth onely for his terme, as tenent in dower, tenent by the courtesie, or otherwise for life, *West parte 2. symbol. titulo. Fines. sect. 13. G.* See anno 32. H. 8. ca. 31. and Cooke in *Sir William Pellams case. lib. 5. fol. 15. a.* they be termours for yeares or life. See *Plowden casu Colshirst. fol. 23. b.* Sole tenent, *Kitchin 134. i.* he that hath none other ioyned with him. If a man and his wife hold for both their liues, and the man dyeth, he dieth not sole tenent, *Idem eodem.* Seuerall tenent, is opposite to ioynt tenents or tenents in common. See *Seuerall tenencie.* Tenent at praece, is he, against whom the writ (*Tracipe*) is to be brought. *Cookes Reports. lib. 3. the case of fines. fol. 88. a.* Tenent in demesne, anno 13. Ed. 1. cap. 9. anno 32. H. 8. cap. 37. is he that holdeth the demeanes of a maner for a rent without seruice. Tenent in seruice,



seruice, *an. 20. Ed. 1. stat. pri.* is he that holdeth by seruice v. *Britton. cap. 79. in principio, & ca. 96. Car fealte, &c. vel quare* whether he may be termed tenant in demesne, that holdeth some of the Demeanes howsoever, and he tenant in seruice, which is a freeholder to a maner houlding by seruice, for the free holds of a manner are not accounted of the demesne, but onely that which the Lord keepeth in his owne hand or letteth out by copie, according to the custome of the maner. Tenant by execution *an. 32. Henr. 8. cap. 5.* is he that holdeth land by vertue of an execution vpon any statute, recognisance, &c.

*Tendebeved (decanus, vel caput decem familiarum)* of this see *Roger Hoveden, parte poster. suorum annalium. fol. 346. a.* See *Frankpledge*.

*Tenement (Tenementum)* is diuersly vsed in the common lawe, Most properly it signifieth a house or home stall: but in a larger signification it is taken for either house or land that a man holdeth of another. And ioyned with the adiectiue (*Frank*) in our lawyers French, it containeth generally lands or houses, yea or offices, wherein we haue estate for terme of life, or in fee. And in this significa-

tion, *Kitchin, fol. 41.* maketh frank tenement, and base estate opposite the one to the other. In the same sort doth *Britton* vse it, through his whole 27. chapter, as also *Bracton* doeth the latine (*liberum tenentum*) *lib. pri. cap. 5. & 6.* and many other places.

*Tenentibus in assisa non onerandis, &c.* is a writ that lieth for him to whome a disseisour hath alienated the land whereof he disseised another, that he be not molested for the dammages awarded, if the *Disseisour* haue wherewith to satisfie them himselfe. *Register orig. fol. 214. b.*

*Tenths (Decime)* is that yearly portion or tribute, which all liuings ecclesiasticall doe yeeld to the king. For though the Bishop of Rome doe originally pretend right vnto this reuenue, by example of the high preist among the Iewes, who had tenths from the *Leuites*, *Numb. cap. 8.* *Hieronimus in Ezechielem.* yet I read in our Chronicles that these were often graunted to the King by the Pope, vpon diuers occasions, sometime for one yeare, sometime for more, vntill by the statute, *anno 26. Henr. 8. cap. 3.* they were annexed perpetually to the Crown. See *Disms.* It signifieth also a taske leuiued of the temporality. *Holinshed. H. 2. fol. 11.*

*Tenore indictamenti mittendo*, is a writ whereby the Record of an indictment, and the proces thereupon, is called out of another court into the chauncerie. *Register orig. fol. 169. a.*

*Tenure (Tenura)* commeth of the Norman (*Tenure*) as appeareth by the Grand Custumarie: cap. 28. where it is defined to this effect: *Tenure* is the manner, whereby tenements are houlden of their Lords. What may make a tenure and what not, see *Perkins Reservations*, 70. And in that chapter shall you finde the most of those tenures recited, that be now vsually in England. In Scotland I finde that there be foure maner of tenures, which they call halding of land; the first is *pura eleemosina*, which is proper to spirituall men, paying nothing for it, but *devota animarum suffragia*: the second they call *Few*, or *few ferme*, which houldeth of the King, Church, Barons, or others, paying a certaine duty called *Feudi firma*. The third is a hould in (*Blench*) as they terme it, by payment of a peny, rose, paire of guilt spurs, or some such like thing, if it be asked, in name of *Blench*, *id est nomine albe firme*. The fourth is by service of ward, and relieue, where the heire being *minor*, is in the gard or custody of his Lord, together with his

lands, &c. And land houlden in this fourth maner, is called there *feudum de Hanberk*, or *Hanbert*. or *feudum militare*, or *feudum Hauberticum*, or *feudum loricatum*: because it is giuen vpon condition, that the vassall possessor thereof, shall come to the host with a lack, or *Haubert* which is a coate of maile. *M. Skene de verb. significat. verbo. Haubert. Tenure* in grosse, is the *Tenure* in *Capite*. For the Crowne is called a *Seignory* in grosse, because it consisteth as a corporation of and by it selfe, not tyed to any honour, or maner. See *Cromptons Jurisd.* fol: 206. See the new booke of *Entries*, verbo *Tenure*.

*Term (Terminus)* signifieth with vs commonly, the bounds and limitation of time: as a lease for terme of life or terme of yeares. *Bracton lib. 2. cap. 6. nu. 4.* But most notoriously it is vsed for that time, wherein the Tribunals, or places of Iudgement are open to all that list to complaine of wrong, or to seeke their right by course of law, or action. The rest of the yeare is called vacation. Of these terms there be foure in euery yeare: during the which, maters of Iustice (for the most part) are dispatched. and this *Sir Tho. Smub lib. 3. de Rep. Ang: cap. 2.* reckoneth as miraculous: that in lesse time then the third part of the yeare, three Tribu-



nals, all in one city, should certifye the wrongs of so large and populous a nation, as England is. Of these terms one is called *Hilary terme* which beginneth the 23. of Iannuary, or if that be Sunday, the next day following, and endeth the 21. of February. Another is called *Easter terme*, which beginneth 18. daies after Easter and endeth the munday next after Ascension day. The third is *Trinity terme*, beginning the Friday next after Trinity Sunday, and ending the Wednesday fortnight after. The fourth is *Michaelmas terme*, beginning the 9. of October, or if that be Sunday, the next day after, and ending the 28. of Nouember.

*Termor* (*Tenens ex termino*) is he that houldeth for terme of yeares or life. *Kitchin fol. 151. Littleton fol. 100.*

*Terra extendenda*, is a writ directed to the *Escheatour*, &c. willing him to inquire and find the true yearely value of any land, &c. by the oath of twelue men, and to certifye the extent into the *Chauncerie*, &c. *Regist. orig. fol. 293. b.*

*Terris, bonis & catallis rehabendis post purgationem*, is a writ that lyeth for a *Clerke* to recover his lands, goods, or chatels formerly seised on, after he hath cleared himselfe of that felonie, vpon suspicion whereof he was

formerly conuicted, and deliuered to his *Ordinarie* to be purged. *Regist. orig. fol. 68. b.*

*Terris liberandis*, is a writ, that lyeth for a man conuicted by attainr, to bring the *Record* and processe before the *King*, and to take a fine for his imprisonment, and to deliuer him his lands and tenements againe, and to release him of the *Strip* and *Waste*. *Regist. orig. fol. 232. a.* It is also a writ for deliuey of lands to the heire after homage, and reliefe performed. *codem fol. 293. b.* or vpon securitie taken, that he shall performe them. *codem fol. 313. b.*

*Terris & catallis tentis ultra debitum levatum*, is a writ Iudiciall, for the restoring of lands or goods to a deptour that is distrained aboue the quantitie of the dept. *Register Iudiciall. fol. 38. b.*

*Terretenent*, (*terratenens*) is he which hath the naturall, and actuall possession of the land, which we otherwise call the occupation. *anno 29. Eliz. cap. 7.* For example, a Lord of a maner hath a freeholder, who letteth out his free land to another to be occupied: this occupier is called the *Terretenent*. *West. parte 2. symb. titulo. Fines. sect. 137. Cromptons Iuris. fol. 194. Britton. cap. 29. Perkins feofments. 231. And Petrus Bellugam speculo Principum,*

*p. um. Rub. 46. versiculo, Restat videre num. 9.* vseth this word *Terratenentes* in the same signification. See *Land tenenis*. Yet I haue heard some learned in the lawe say, that the *Terienent*, is the tenent in free, or copyhold, according to the custome of the maner, and opposite to tenent for terme of yerres. *Quare.*

*Ters*, is a certaine measure of liquide things, as wine, oyle, &c. containing the sixth part of a Tunne. anno 32. H. 8. cap. 14. or the third part of a pipe.

*Testament*, (*testamentum*.) See *Will*.

*Testatum*, is a writ that seemeth especially to lye against great personages of the realm, whose bodies may not be medled with in actions of dept. And therefore if the Shyreue return, (*nihil habet in balliva mea*) in a case of execution, another writ shall be sent out into any other Countie, where such personage is thought to haue whence to satisfie, which is termed a *Testatum*, because the Shyreue hath formerly testified, that he found nothing in his Bayliweeke to serue the turne. See *Kitchin* in his Returnes of writs. fol. 287. b.

*Teste*, is a word commonly vsed for the last part of any writ: so called, because the very conclusion of euery writ wherein

the date is contained, beginneth with these words, (*teste meipso, &c.*) If it be an originall writ, or if iudiciall, *teste Thom. Fleming*, or *Edouardo Cooke*, according to the Court whence it cometh. Where I may note by the way, that in *Glanville lib. pri. cap. 6. & 13. & lib. 2. cap. 4.* I find the forme of an originall writ in the last clause to be (*teste Ranulpho de Glanvilla apud Clarindon, &c.* And diuers times in the Register orig. *Teste custode Anglie*: as namely, in the title *Prohibition. fol. 42. a.* and *Consulation, fol. 54. b.*

*Thanus*, is a made Latin word of the Saxon (*thegn*) which cometh of (*thenian. i. alicui ministrare.*) It signifieth sometime a Noble man, sometime a free man, sometime a Magistrate, sometime an Officer, or minister. *Lamb.* in in his Explication of Saxon words. *verbo Thanus*. See the place. See *vavasour. M. Skene de verbor. signif.* saith, it is the name of a dignitie, and appeares to be equall with the sonne of an Earle. And *Thanus* was a free holder holding his lands of the King. And a man not taken with the *fang* (that is, with the maner, as we say,) accused of theft, no sufficient prooffe being brought against him, must purge himselfe by the oath of 27. men, or of three *Thanes*. *Tha-*



*nagium Regis*, signifieth a certaine part of the Kings lands, or propertie, whereof the rule and gouernement appertaineth to him, who therefore is called *Thannus*. For *Domania Regis*, and *Thanagia*, *idem* significant. It is a Dutch word: For (*teiner*) signifieth a seruant, and *teinen* to serue. And *thane* is likewise a seruant, and *under-thane*, an inferiour *thane* or subiect. Thus farre *M. Skene*.

*Thacktile*. anno 17. Ed. 4. cap. 4. otherwise called *plaine tyle*, is that tile which is made to be layed vpon the side, and not vpon the rudge of a tyled house. anno 17. Ed. 4. cap. 4.

*Theam*. See *Team*.

*Theft* (*furtum*) is an vnlawfull felonious taking away of another mans moueable, and personall goods against the owners will, with an intent to steale them. *West. parte 2. symbol. titulo Inditements. sect. 58.* where also he saith, that theft is from the person or in presence of the owner, or in his absence. Theft from the person or in presence of the owner, is of two sorts: the one putting the owner in feare; the other not. *Idem, eodem, sect. 59.* The former is properly called *Robberie. ibid. sect. 60.* The new expounder of lawe termes, *verbo Larcenie*, diuideth theft into theft so simply called, and pe-

tit or litle theft. Whereof the one is of goods about the value of twelue pence, and is felonie, the other vnder that value, and is no felonie. But see *Felonie*.

*Theftbote*, is made of (*theft*) and (*boote*) i. *compensatio*, and signifieth properly the receiuing of goods from a theefe, to the end to fauour, and maintaine him. The punishment whereof is raunsome and imprisonment, and not losse of life and member. *Stamf. pl. cor. lib. prim. cap. 43.* and the myrror of Iustices. *lib. 2. cap. des peches criminels al sute le Roye.* And yet he there maketh mention of a Record alledged, which testified a iudgement of life and member giuen in this case.

*Thegne*. See *Thannus*, and *Thingus*.

*Them*. See *Team*. It signifieth *acquietantiam amerciamenorum sequela propriorum seruorum.* *Fleta lib. prim. cap. 47. §. Theme.*

*Thelonium*. See *Tholle*, and *Tholonium*, and *Tolie*.

*Theolonio rationabili habendo pro Dominis habentibus Dominica Regis ad firmam*, is a writ, that lyeth for him, that hath of the Kings demesne in fee ferme, to recouer reasonable tolle of the Kings tenents there, if that his demesne haue bene accustomed to be tolled. Register origin. fol.

fol. 87. b.

*Thingus*. *Cromptons Iurisd.* fol. 197. seemeth to be vsed for the Saxon *Thegne*. See *Thanus*. His words are these, speaking of a Charter or Graunt made by a Lord of a Forest. *Sciatis me concessisse omnibus militibus, & omnibus thingis, & omnibus liberè tenentibus, qui manent in Foresta mea de Honore de Lancaster, quod possunt, &c.* *Fleta* writeth it *Tlem*, & saith, *quod significat liberum*.

*Then*, significat *seruum*. *Fleta* li. prim. cap. 47. See *Thanus*, and *Thingus*.

*Thridborow*, is vsed for a constable. anno 28. H. 8. cap. 10. which also is noted by *M. Lambert* in his Tractate intituled: *The dutie of Constables*, pag. 6. which seemeth to be corruptly vsed for the Saxon (*freoborh*. i. *ingenuus fideiussor*,) or (*freborhe*. i. *was primarius*) *Idem*. in his explication of Saxon words. verbo. *Centuria*.

*Thrid with hawan man* (*trium notitium hostes*) who if he did any harme, his host, by the lawes of Saint Edward, and of the Conquerour, was answerable for the harme. *Rogerus Hoveden parte poster. suorum annal.* fol. 345.

*Thoeki of fish*, anno 22. Ed 4. cap. 2.

*Tholl* (*Thollonium*) est *libertas emendi, & vendendi in terra sua*. *Archamom.* *Lamb.* fol. 132. See

*Toll*.

*Thraue of corne*, anno 2. H. 6. ca. 2. consisteth of two shokes: and euery shoke containeth 6. sheaues. It seemeth to be a word proper to the north parts.

*Thrimsa*, commeth of (*Tbreo*) that is three, and signifieth a peece of money of three shillings. *Lamb. expla. of Saxons words. verbo Thrimsa*.

*Tilsen of saten*, anno 1. H. 8. ca. 14.

*Tinceil*, commeth of the French (*Estincelle*. i. *scintilla*) or the verb (*Estinceller*. i. *scintillare*) It signifieth with vs a stuffe or cloath made partly of filke and partly of gold or siluer, so called because it glistereth or sparkleth like starres.

*Tissu*, is a French word signifying as much as (woven) Cloth of Tissue, with vs cloth of filke and siluer, or of filke, and Gould woven together.

*Tithe* (*Decime*) seemeth to be an abbreviat of (tything) being the Saxon (*Teothung*) a little altered, which signifieth *Decuriam*, *Lamb. explica. of Saxon words. verbo. Decuria*. It signifieth in our common lawe, the tenth part of all fruites prediall, or personall, which be due to God, and so consequently to his Minister, toward the recompence of his paines taken in instructing his charge, how to



liue after Gods commandements, and his continuall intercession that he doth or ought to make vnto God for their both spirituall and temporal blessings *Leuit. cap. 27. vers. 30.* I say the tenth part, though *Comarrius* with other learned Canonists and Scholemen, hold the rate of tithes, not to be necessarily the tenth part of the fruites by the morall lawe of God. Yet the beter and more theologicall opinion is, that they are all deceiued, and that from their error hath sprong much wrong to almighty God, and greate mischief to his church: & that by the law of God and nature no contrary custome ought to last any longer, then the parson and parishioner shall both thinke well of it. Wherefore those customes of paying a halfepeny for a lambe, or a pennie for a calfe by such as haue vnder seuen in one yeare, how long so euer it hath indured, is but very vnreasonable in these daies, when both lamb and calues are growne foure times deerer, and more then they were when this price was first accepted. And therefore no man dischargeth well his conscience in this point that paieth not duly the tenth of euery Lamb, euery calfe, and euery other thing tithable. For

by this course the minister sa-  
reth well or euill in a propor-  
tion with his parishioner, as it  
pleaseth God to giue increase,  
whereas by any other order the  
one or the other shall finde  
want of indifferencie, as the  
prices of things shall rise or  
fall.

*Tithing* (*Tithingum*) is the  
Saxon word *Teothung* for the  
which see (*Tithe*) It signifieth  
(as *M. Lamb.* saith in his dutie  
of Constables) the number or  
company of ten men with their  
families cast, or knit together in  
a societie, all of them being  
bound to the King for the  
peaceable and good behauiour  
of each of their societie. Of  
these companies was there one  
cheife or principall person, who  
of his office was called (*Toothung  
man*) at this day in the West  
parts (*Tithingman*) But now he  
is nothing but a Constable. For  
that old discipline of Tithings  
is left long sithence. It signifieth  
also a court, *anno 23. Ed. 3.  
cap. 4. & anno 9. H. 3. cap. 35.* See  
*Chiefe Pledge* and *Frank pledge*,  
and *Decennier*. Tithing is vied  
for a Court. *Magna charta, cap.  
25.* and *Merton, cap. 10.*

*Todde of wooll*, is a quantitie  
containing 28. pound in weight,  
or two Stone.

*Tost* (*Tostum*) is a place,  
wherein a mesuage hath stode  
West.

West. parte 2. Symbol. titulo Fines  
sect. 26.

Toile, commeth of the French  
(Toile. i. tela) and signifieth with  
vs a net of cord to compasse or  
take Deere.

To lange and to bred. See Bred.

Tolle (Tollere) as it is a verbe  
signifieth to defeate or take a-  
way, anno 8. H. 6. cap. 9.

Toll, alias Tholl (Tolnetum, alias  
Theolonium) is a Saxon word,  
and hath in our common lawe  
two significations: first it is vsed  
for a libertie to buy and sell  
within the precincts of a maner.  
Lumb. Archainom. fol. 132. which  
seemeth to import so much as a  
faire or market. The words be  
these: *Thol (quod nos dicimus Tho-*  
*loniū) est scilicet quod habeat liber-*  
*tatem vendendi & emendi in terra*  
*sua.* In the second signification  
it is vsed for a tribute or cus-  
tome paid for passage, &c. as  
in Bracton. *Si cui concedatur ta-*  
*lis libertas quod quietus sit de The-*  
*olonio & consuetudinibus dan-*  
*dis per totum Regnum Anglie in*  
*terra & mari, & quod Theolonium*  
*& consuetudines capiat infra liber-*  
*tatem suam de ementibus & ven-*  
*dentibus, &c.* lib. 2. cap. 24. num. 3.  
But euen there in the end of  
the second number he hath this  
word, Toll (as it seemeth) in the  
former signification also, which  
by these words aboue written  
folowing a little after, he inter-

preteth to be a libertie as well  
to take as to be free from Tolle.  
The made Latine word (*Theolonium*)  
*Cassianus in consuetud. Bur-*  
*gund. pag. 118,* derieth a *Tollen-*  
*do*) but I rather thinke it com-  
meth from the greeke (*τελῶν*)  
or (*τελωνία*) .i. *vectigalium re-*  
*demptio, vel etiam vectigalium*  
*exactio* *Eleta* hath these words  
of it: *Tol significat acquietantiam*  
*Theolonii ubiq; in Regno, lib. pri.*  
*cap. 47. M. Skene de verb. signifi.*  
*verbo Toll,* saith it is a custome,  
and that it commeth from the  
Greeke word of the same signifi-  
cation (*τέλεος*) and that he who  
is infeoffed with Toll, is custome  
free, and payeth no custome:  
which is manifest by sundry  
ould bookes, wherein it is writen:  
*Toll, hoc est quod vos & homines*  
*vestri de toto homagio vestro sint*  
*quieti de omnibus mercantiis, & de*  
*Tolneto, de omnibus rebus emptis &*  
*venditis.* Thus farre he. *Kit-*  
*chin fol. 104.* maketh mention  
of Tolle through, and Toll Tra-  
uers, his words be to this effect.  
Custom or prescription to haue  
Toll through in the high way,  
is not good: for it is against  
the common right. But to haue  
prescription of Tolle Trauers, is  
good. In which place the differ-  
ence betweene the one, and  
the other the siewe expositor of  
lawe terms saith to be, that  
tolle trauers is that mony, which



is taken for passing ouer a priuate mans ground. But this author seemeth to differ from *Kutcher* touching the lawfulness of tolle through, saying that by reason of a bridge prouided at the cost and charge of the towne, for the ease of trauellers, he thinketh it resonable, that tolle through be exacted toward the maintenance thereof: which writer also maketh mention of tolle turn: and that he defineth to be tolle paide for beastes driuen to be sold, though they be not sold indeede. Where, I think, he must meane a tolle paide in the returne homeward from the faire or market, whether they were driuen to be sold. *Plowden, casu Willion, fo. 236.* agreeth in this definition of tolle trauers. And this the Feudists call *parangariam*, defining it to be *sumptus & labores ferendi referendine alicuius causae a principe impositi, cum non per viam, sed alio versum iter suscipiunt. l. 2. Co. de Episc. & cleri. a graco (απαρ' ἄρσεια) i. transitus per viam transversam.* *Gothofred. ad l. 48. l. 1. π. de vetera.* I finde in *Andrew Harns mirror of Iustices, lib. 1. cap. des articles, &c.* that by the auncient lawe of this land, the buyers of corne or catell in faires or markets, ought to pay rolle to the Lord of the market, in testimony of their contract there law-

fully made in open market: for that priuie contracts were held vnlawfull.

• *Toloneum* or *Breve de'essends quietum de Toloneo*, is a writ that lyeth in case, where the Citizens of any Citie, or Burgesses of any towne, be quit from tolle by the graunt of the kings predecessours, or prescription: which you haue at large in *Fitzh. nat. br. fol. 226.* See *Telonium*.

*Tolt* (*Tolra*) is a writ whereby a cause depending in a court Baron, is remoued into the county court. *Old. nat. br. fol. 2.* The reason of the appellation seemeth to come from the verb (*Tollo*) v. *Cooke, lib. 3. in prefatione ad lectorem.*

*Tonne.* See *Tunne*.

*Tonnage*, is a custome or impost due for merchādise brought or caried in tonns and such like vessels, from or to other nations after a certain rate in euery tonne *anno 12. Ed. 4. ca. 3. anno 6. H. 8. ca. 14. & anno pri. Ed. 6. cap. 13. anno pri. Iacobi, cap. 33.* I haue heard it also called a duty due to the Mariners for vnloading their ship arriued in any hauen after the rate of euery tonne.

*Torny.* See *Turney*.

*Torted* *anno 42. Ed. 3. cap. 9. & anno 1. Ed. 6. ca. 15.* is a word vsed of a depr, which the forein Apposer or other officer in the Exchequer noteth for a good depr

deft to the King by writing this word (*Tot*) vnto it.

*Tourn.* See *Turn*.

*Tout temps prist & vncore eft:* that is to fay in English, Alway ready and is at this present: this is a kinde of plee in way of excuse or defence vnto him that is fiewed for withhoulding any dept, or duty belonging to the plaintiffe. See of this *Brooke* his Abridgement, fol. 258.

*Traile baston.* See *Iustices of triall baston*.

*Traitor* (*traditor, proditor*) See *Treason*.

*Transgression*, is a writ, called commonly a writ or action of trespass. Of this *Fitzherbert* in his *Natura bre:* hath two sorts: one *Vicountiel*, so called, because it is directed to the Shyreue, and is not returnable but to be determined in the countie: The forme whereof differeth from the other, because it hath not these words: *Quare vi & armis, &c.* and this see in *Fuzb. nat. br. fol. 85. G.* The other is termed a writ of trespassse vpon the case, which is to be fiewed in the common Bank, or the Kings Bench, in which are alwaies vsed these words *vi & armis, &c.* And of this you haue *Fitzb. nat. br. fol. 92. E.* See *Trespass*. See the diuers use of this writ in the *Register originall*, in the table.

*Transcript, anno 34. & 35. H. 8. cap. 14.* is the copy of any originall written againe or exemplified.

*Transcripto Recognitionis facta coram Iusticiariis itinerantibus, &c.* is a writ for the certifying of a Recognisance, taken before Iustices in Eire, into the Chauncery, *Register orig fol. 152. b.*

*Transcripto pedis finis levati mittendo in Cancellariam*, is a writ for the certifying of the foote of a fine leuied before Iustices in Eyre, &c. into the Chauncerie, *eodem. fol. 169. & Register Iudiciall, fol. 14.*

*Travers*, cometh of the French (*Traverser. i. transfigere*) It signifieth in our common lawe sometime to denie, sometime to ouerthrow, or vndoe a thing done. Touching the former signification take these words in *Wests symbol. parte 2. titulo Chauncery, sect. 54.* An answer (saith he, speaking of an answer to a bille in Chauncerie) is that, which the Defendant pleadeth or saith in barre to auoide the plantiffes bille, or action, either by confession and avoiding, or by denying and traversing the materiall parts thereof. And againe, *sectio. 55.* A replication is the plainriffes speech or answer to the Defendants answer, which must affirme and persue his bille, and confesse



and auoide, deny or traaverse the Defendants answer. And the formall words of this trauers are in Lawyers French (*sans ceo*) in Latine (*absque hoc*) in English (without that.) See *Kitchin fol. 227. titulo Affirmative & Negative*. In the second signification I find it in *Stawnfords prerog. cap. 20.* through the whole chapter, speaking of traauersing an office: which is nothing else, but to proue, that an inquisition made of goods or lands by the Esche-tour, is defectiue and vntruly made. So traauersing of an Inditement, is to take issue vpon the chiefe mater thereof: which is none other to say, then to make contradiction, or to deny the point of the Enditement. As in presentment against *A.* for a high way oueflowne with water for default of scowring a ditch, which he and they, whose estate he hath in certain land there, haue vsed to scower and cleanse. *A.* may traaverse either the mater, *viz.* that there is no high way there, or that the ditch is sufficiently scowred: or otherwise he may traauers the cause, *viz.* that he hath not the land, &c. or that he and they whose estate, &c. haue not vsed to scoure the ditch. *Lamb. Etrenarcha. lib. 4. cap. 13. pag. 521* 522. Of Trauers see a whole chapter in *Kitchin, fol. 240.* See

the new booke of Entries. *verbo, Trauers.*

Treason (*traditio, vel proditio*) commeth of the French, *trahison*, i. *proditio*) and signifieth an offence committed against the amplitude and maiestie of the commonwealth. *West parte 2. symbol. titulo Inditements. sect. 63.* by whom it is there diuided into High treason, which other call *altam prodicionem*, and petit treason. High treason he defineth to be an offence done against the securitie of the common wealth, or of the Kings most excellent Maiestie: whether it be by imagination, word, or deed: as to compass or imagine treason, or the death of the Prince, or the Queene his wife, or his sonne and heyre apparent, or to deflowre the Kings wife, or his eldest daughter vnmarried, or his eldest sonnes wife: or leuie war against the King in his Realme, or to adhere to his enemies, ayding them, or to counterfeite the Kings great Seale, priue Seale, or money, or wittingly to bring false money into this Realme counterfeited like vnto the money of England, and vtter the same: or to kill the Kings Chaunceler, Treasurer, Iustice of the one bench, or of the other, Iustices in Eyre, Iustices of Assise, Iustices of oyer and terminer, being in his place, &c. doing  
of

of his office. *anno 25. Ed. prim. ca. 2.* or forging of the Kings seale manuell, or priuy signet, priuy seale, or forrein coine current within the Realme *anno 2. Mar. cap. 6.* or diminishing or impairing of money current, *an. 5. Elizab. ca. 11. & anno 14. El. ca. 3. & 18. Elizab. ca. pri.* and many other actions which you may read there and in other places particularly expressed. And in case of this treason a man forfeiteth his lands, and goods to the King onely. And it is also called treason Paramount. *anno 25. Ed. 3. cap. 2.* The forme of Iudgement giuen vpon a man convicted of high treason is this. The Kings Sergeant after the verdict deliuered, craueth Iudgement against the prisoner in the behalfe of the King. Then the Lord Steward (if the traitour haue bene noble) or other Iudge (if he be vnder a peere) saith thus: N. Earle of P. For so much as thou before this time hast bene of these treasons indited, and this day arraigned for thee same, and put thy selfe vpon God and thy peeres, and the Lords thy peeres haue found thee guilty, my Iudgement is that thou shalt from hence be conueied vnto the Tower of London, whence thou camest, and from thence drawne through the midst of London to Tiburke,

and there hanged: and liuing thou shalt be cut downe, thy bowels to be cut out and burnt before thy face, thy head cut off, and thy body to be diuided in foure quarters, and disposed at the Kings Maiesties pleasure: and God haue mercy vpon thee.

Petit treason is rather described by examples, then any where logically defined: as when a seruant killeth his master, or a wife her husband, or when a secular or religious man killeth his prelate, to whom he oweth faith and obedience. And in how many other cases petit treason is committed. See *Cromptons Iustice of peace.* And this maner of treason giueth forfeiture of Escheats to euery Lord within his owne fee *anno 25. Ed. 3. cap. 2.* Of treason see *Bracton lib. 3. tract. 2. cap. 3. num. pri. & 2.* Treason compriseth both high and petit treason *anno 25. Ed. 3. stat. 3. cap. 4.*

*Treasure troue* (*Thesaurus inuentus*) is as much as in true French (*Tresor trouue*) .i. treasure found: and signifieth in our common law, as it doth in the Ciuile law, *idest, veterem depositionem pecunie, cuius non extat memoria, ut iam dominum non habeat. l. 31 §. prim. τ. de acquir. rerum Dom.* Neere vnto which definition commeth *Bracton. lib. 3. tract. 2. cap. 3. num. 4.* And this trea-



sure found, though the ciuill lawe do giue it to the finder, according to the lawe of nature; yet the lawe of England, giueth it to the King by his prerogatiue, as appeareth by *Bracton vbi supra*. And therefore as he also saith in the sixth chapter, it is the Coroners office to enquire therof by the countrie to the Kings vse. And *Stawm. pl. cor. lib. pr. cap. 42.* saith, that in auncient times, it was doubtful, whether the concealing of treasure found were felonie, yea or not: and that *Bracton* calleth it *grauem presumptionem, & quasi crimen furti*. But the punishment of it at these dayes, as he proueth out of *Fitzh. Abridgment. pag. 187.* is imprisonment, and fine, and not life and member. And if the owner may any way be knowne, then doth it not belong to the kings prerogatiue. Of this you may reade *Britton* also, *cap. 17.* who saith, that it is euery subjects part, as soone as he hath found any treasure in the earth, to make it knowne to the Coroner of the countrie, or to the Bayliffes, &c. See *Kitchin* also, *fol. 40.*

*Treasurer, thesaurarius*, cometh of the French (*tresorier*) i. *questor, prefectus fisci*) and signifieth an Officer, to whom the treasure of another, or others, is committed to be kept, and truly

disposed of. The chiefeft of these with vs, is the *Treasurer of England*, who is a Lord by his office, and one of the greatest men of the land: vnder whose charge and gouernment is all the Princes wealth contained in the Exchequer, as also the checke of all Officers any way employed in the collecting of the Imposts, tributes, or other reuenewes belonging to the Crowne. *Smith de Repub. Anglor. lib. 2. cap. 14.* more belonging to his office, see *ann. 20 Ed. 3. cap. 6. & anno 31. H. 6. cap. 5. & anno 4. Ed. 4. cap. pri. & anno 17. eiusdem. cap. 5. & anno prim. R. 2. cap. 8. & anno 21. H. 8. cap. 20. & anno prim. Ed. 6. cap. 13.* *Ockams Lucubrations* asfirme, that the Lord chiefe Iustice had this authoritie in times past: and of him hath these words: *Iste excellens Sessor omnibus, quæ in inferiore vel superiore scacchiosunt, prospicit. Ad nuntium ipsius qualibet officia subiecta disponuntur: sic tamen ut ad Domini Regis Utilitatem iuste perueniant. Hic tamen inter cetera videtur excellens, quod potest his sub testimonio suo breue Domini Regis facere fieri, ut de thesauro qualibet summa liberetur, vel ut computetur quod sibi ex Domini Regis mandato prænouerit computandum, vel si maluerit, breue suum sub aliorum testimonio faciet de his rebus.*

This high Officer hath by vertue of his office at this day, the nomination of the *Escheatours* yeerely throughout *England*, and giueth the places of all customers, controllers, and searchers in all the ports of the Realme. He sitteth in the chequer chamber, and with the rest of the court, ordereth things to the Kings best benefite. He with the Barons may by statute stall depts of three hundred pounds and vnder. And by commission from his maiestie, he with others ioyned with him, letteth leases for liues or yeares, of the lands that came to the Crowne by the dissolution of Abbeyes. He by his office giueth warrant to certaine men to haue their wine without impost. He taketh declaration of all the money payed into the Receipt of the *Exchequer*, and of all Receiuers accompts.

Then is there a *Treasurer* of the kings household, who is also of the priuie Councell, and in the absence of the Steward of the Kings household, hath power with the Controller and the Steward of the Marshalsea, without commission to heare and determine treasons, misprisions of treasons, murder, homicide, and bloudshed, committed within the Kings pallace. *Stannf. pl. cor. lib. 3. cap. 5.* In the statute

*anno 28. Rich. 2. cap. 18. & anno 11. H. 7. cap. 16.* mention is made of the *Treasurer of Calis*. In *Westm. 2. cap. 8.* of the *Treasurer of the Exchequer*. & *anno 27. Ed. 3. stat. 2. cap. 18. & anno 35. Eliz. cap. 4.* Of the *Treasurer of the Nauie*, or *Treasurer of the warres* or garrisons of the *Nauie*. *anno 39. El. cap. 7.* *Treasurer of the Kings chamber*. *anno 26. H. 8. cap. 3. & anno 33 eiusdem cap. 39.* *Treasurer of the warres*. *anno 7. H. 7. cap. prim. anno 3. H. 8. cap. 5.* *Treasurer of the Chauncerie*. *West. parte 2. symbol. titulo Fines. sect. 152.* *Treasurer of the Kings Wardrobe*. *anno 15. Ed. 3. stat. prim. cap. 3. & anno 25. eiusdem. stat. 5. cap. 21.* whose office you haue well set foorth in *Fleta, lib. 2. cap. 14.* *Treasurer of the Countie* for poore souldiers. *anno 35. Eliz. cap. 4.* And most corporations through the kingdome, haue an officer of this name, that receiueth their rents, and disburseth their common expences.

*Treate* commeth of the French (*traire. i. emulgere*) and signifieth in the common lawe, as much as *taken out*, or *withdranne*. As a lurrour was chalenged, for that hee might not dispend 40. pounds, and for that cause he was *treate* by the Statute. *old na. br. fol. 159.* that is, removed or discharged.



Breade of treate, anno 51. H. 3. Statute of breade, &c. what it signifieth, I cannot learne.

*Tresspas* (*Transgressio*) is a French word signifying as much as *Mors, obitus, excessus*. The reason whereof I take to be, because in interpretation it is a passage from one place or estate to another: for in *Britton, cap. 29.* I find *trespassants* for *passengers*. In our common law and language, it is vsed for any transgression of the lawe, vnder treason, felonie, or misprision of treason, or of felonie, as may be gathered out of *Stawnf. pl. cor. fol. 38.* where he saith, that for a Lord of the Parliament to depart from the Parliament without the kings licence, is neither treason nor felonie, but trespassse. And againe, *fol. 31.* saying, that where it was wont before the statute made *anno prim. Ed. 2.* called *Statutum de frangentibus prisonam*, that the breach of prison was felonie, if it were the Kings prison: it is sithence but trespassse, except the prisoner were committed for felonie. But it is most commonly vsed for that wrong or damage, which is done by a priuate man to the King, as in his *Forest, pl. cor. lib. 2. cap. 18.* or to another priuate man. And in this signification it is of two sortes: trespassse generall, otherwise termed, trespassse *vi & ar-*

*mis*: and trespassse especiall, otherwise called trespassse vpon the case. And this seemeth to be without force. Termes of the Lawe. Action vpon the case, as appeareth by *Kitchin, fol. 176.* The former I take to be called generall, because it riseth from that generall ground in lawe, that whatsoeuer is done by any priuate mans humour *vi & armis*, is an offence. The later I call especiall, because *Kitchin* calleth the other generall: and another reason may be this, because it springeth from a particular case or fact, not contained vnder any other generall head. And the action lying for this trespassse, is otherwise called an action vpon the case, as may be gathered out of diuers places vnder the title *Trespasse*, in *Brookes his Abridgement*. How to distinguish the forme of these writs or actions, See *Fitz. nat. br. fol. 86. l. & 87. H. 1.* In an action of trespassse, this is perpetuall, that the plaintiffe sheweth for damages, or the valew of the hurt done vnto him by the Defendant. It seemeth an hard thing to distinguish these two kinds of trespassses so, as to be able to say when it is a trespassse *vi & armis*, and when vpon the case: as may well appeare to him that shall peruse this title in *Brooke*. But this is to be left to the experience of

of graue and skilfull pleaders. I find moreouer in *Kitchin*, fol. 188 that there is a *trespasse locall*, and *trespasse transitorie*: *trespasse locall* is that, which is so annexed to a place certaine, as if the Defendant ioine issue vpon the place, and trauers the place, onely by saying, *Absque hoc*, that he did the trespassse in the place mentioned in the declaration, and auerre it, it is enough to defeate the action. *Trespasse transitorie* is that, which cannot be defeated by the defendants trauers of the place, saying: without that I committed the trespassse in the place declared: because the place is not materiall. Examples of both you haue set downe by *Kitchin*, in the place aboue named, to this effect: trauers by (*Absque hoc*) of trespassse in batterie, or goods brought in, is transitorie, and not locall: as it is of trees cut, or herbes.

And therefore in trespassse transitorie the place shall not make issue, neither is it trauersable: no more then is a trespassse vpon a case of an Assumption. *Bracton* in his fourth booke, cap. 34. num. 6. diuideth *transgressionē in maiorem & minorem*: which place reade. See also great diuersitie of trespassses in the new booke of Entries. *verbo Trespasse.*

Triall (*triatio*) is vsed in our

common lawe, for the examination of all causes ciuill or criminall, according to the lawes of our Realme. Of this word *Stawm*, *pl. cor. lib. 2. cap. 26.* writeth to this effect. There was a statute made *prim. & secund.* *Philip. & Mar. cap. 10.* to this purpose. And be it furder enacted by the authoritie aforesaid, that all trials hereafter to be had, awarded or made for any treason, shall be had and vsed according to the due order and course of the common lawes of this Realme, and not otherwise, &c. By this word (*triall*) saith *Stawm*, in that place, some vnderstand as well the inquest that indicteth a man, as the enquest vpon the arraignment, that attainteth or acquitteth him. For these two make but one entire triall, that euery man is to haue, when he is impeached of treason. But others haue answered to this, that triall in common speech, is the triall that a man is to haue, after he is indicted, and not before. For in lawe the inditement is nought, but the accusation against him, which he is to make answer vnto and that being tried, it either attainteth, or acquitteth him. So that the triall is the issue, which is tried vpon the Inditement, & not the Inditement it selfe. For that is no part of the thing which trieth, but the thing which



is tried, and the offence. And so is this word Triall vnderstood in the statute, *anno 33. H. 8. cap. 23.* where it saith thus. must be indighted within the shires or places, where they committed their offences, and also tried by the Inhabitants, or freeholders. So he putteth a difference betwene Inditement and Triall, as he doth also afterward in these words: There to be indited and tried of their offences, &c. Thus far: *Stawf. Sir. Tho. Smith de Rep. Anglo. li 2. ca 5.* saith, that by order and vsage of England, there are three trials, that is. 3. waies and maners, whereby absolute, and definite Iudgement is giuen: by Parliament, which is the highest, and most absolute. by battell and great Assise: which he seuerally describeth in 3. chapters folowing, though not so fully as the thing requirereth. But of the great Assise, he speaketh at large in the 23. chapter of the same booke. And of these trials see more in *Stawf. pl. cor. lib. 2. cap. pri. 2 & 3.* whereof he deuiderth the great Assise into two sorts: one proper to Barons of the Parliament, which is by 20. or 18. of their Peeres: the other common to others of lower condition, which is by 12. men, that be neighbours to the place where

the offence was committed, And of those you may read him at large in the saide chapters there following. See *Twelue men.* See the new booke of *Entrise. verbo. Triall.*

*Tribing* (*Tribinga, vel Tri-thinga*) seemeth by a place in *Edward* the confessours lawes, set out by *M. Lamberd, nu. 34.* to be the third part of a shire or prouince, otherwise called (*Lech*) which we now call (*Leete*). The same lawe doth *M. Camden* also mention, pag. 102. & 103. This court is aboue a court Baron, and inferiour to the Shire, or countie. This word is also vsed in the sentence of excommunication vpon the great Charter and charter of the Forest. denounced in the daies of *Edward* the first, as it is latined in the booke called *pupilla oculi. parte 5. cap. 22.* A. I. in these words: *Visus autem de franco plegio sic fiat, sc: quod pax nostra teneatur, & quod Tribinga integra sit, sicut esse consuevit, &c.* Of this *Fleta lib. 2. cap. 61. s. final.* writeth thus; *Sciendum est quod alie potestates erant super Wapentakia, qua Trumga dicebantur, eo quod erat tertia pars prouincie, qui uero super eas dominabantur, trithingreues vocabantur, quibus deferiebantur cause qua non in Wapentakiis poterant definiri in Scbiram Sicq, quod vocatur*

*Hundredum*, iam per variationem locorum & idiomatis, *Wapentakie* appellatur, & tria vel quatuor vel plura *Hundreds* solebant *trithinga* vocari: & quod in *trithingis* non poterant diffiniri in *shiram*. i. in comitatum deferrebat *terminandū*. Modernis autem temporibus pro uno & eodē habentur apud homines *Hundreds Wapentakia* & *trithinga* *Learne* whether those diuisions in *Yorke-shire* called *ridings*, be not *quasi trithings*. Of this *Roger Houeden* parte post. *suorum annal.* fo. 346. b. hath the same words in effect.

*Treswell* of double soled shoes, anno 2. & 3. Ed. 6. cap. 9. which as I haue heard should rather be written *creswel*, signifieth the broad edge or verge of the shoe sole round about.

*Trinitie house*, is a certaine house at *Deptford* which belongeth to a companie or corporation of sea-faring men that haue power by the Kings Charter to take knowledge of those that destroy sea markes, and to redresse their doings, as also to correct the faults of saylers, &c. and to take care of diuers other things belonging to nauigation and the seas. v. anno 8. *Elizab. ca.* 13. & anno 35. eiusdem, ca. 6.

*Trink*, is a kind of net to fish withall. anno 2. H. 6. cap. 15.

*Trients*, be such as be chosen

by the court to examine whether a challenge made to the panell, or any of the panell, be iust yea, or not. *Brooke* titulo. *Challenge.* f. 122. & *ould na.* br. f. 158.

*Tritis*, alias *Tristis*, is an immunitie from that attendance, in the forest, whereby euery man dwelling in the forest, is tyed to be readie, houlding of a *Greyhound*, when the Lord of the Forest is disposed to chace within his Forest, at such place as he shall be appointed, or els to be amerced for dis default. *Mamwood* parte pri. of his forest lawes. pag. 86. and *Cromptons Jurisdic.* fol. 192. & 197.

*Tronage* (*Tromagium*) is a kind of tolle, *Westm.* 2. cap. 25. anno 13. Ed. 1. taken (as it seemeth) for weying. For I find in *Fleta li.* 2. cap. 12. §. Item *vlus* that *trona* is a beame to weigh with. See *Weight*.

*Trover*, commeth of the French (*Trouuer*. i. *Invenire*) It signifieth in our common lawe, an action which a man hath against one that hauing found any of his goods, refuseth to deliuer them vpo demand. See the new booke of *Entries ver. Trover*.

*Troy weight* (*Pondus Troia*, See *Weight*.

*Tumbrell* (*Tumbrellum*) is an engine of punishment, which ought to be in euery libertie that hath view of frank pledge,



for the coercion of skowldes and vnquiet women. *Kitchin. fol. 13. 4.* Newe booke of *Enuries. Franchise 2. & Quo warranto. 1. See Cucking stoele.*

**Tunne**, is a measure of oile or wine containing twelue score and twelue gallons, *anno 1. R. 3. cap. 12.* that is 4. hogf-heads.

**Tunnage**. See *Tonnage*.

**Turbarie** (*Turbaria*) is an interest to digge turves vpon a common. *Kitchin. fol. 94. old. nat. br. fol. 70.* It commeth of the rude Latine word (*Turba*) which is vsed for a turfe. *Lynd. in provin. de decimis cap. final.*

**Turmerick** (*Turmerica*) is a certaine roote of an herb growing in *Arabia*, as I haue bene informed, very wholsome for diuers diseases in horses, and sometime vsed for man also in the case of icandes. It is reckoned among the garbleable drugs *anno 1. Laco. ca. 19.*

**Turne** (*Turnum*) is the Shyreeces court kept euery yeare twice: once after Easter, and againe after Micheelmas. *Magna charta cap. 35.* and that within one moneth after each feast, *anno 3. Ed. 3. c. 5.* from this court are exempted onely, Archbishops, Bishops, Abbots, Priors, Earles, Barons, all religious men, and women, and all such as haue

Hundreds of their owne to be kept. And these are not bound to appeare there except their appearance be especially required vpon some extraordinary cause, *anno 25. H. 3. cap. 10.* and *Britton. cap. 29.* It seemeth to be called the *Shyreeces Turn* of the French word (*Tour .i. ambitus. circuitus, vicissitudo*) and is of *Britton* called *Tour. cap. 61. sub fine capitis*, as if we would say (The Shyreecue his course) for (as *Britton* noteth in the said 29. chapter) that which before the Shyreecue, is called the Shyreeces Turne, is called in the court of Fraunchises and Hundreds, the view of Frank-pledge: wherein inquirie is especially made of such as be not in any dozin. with whome *Fleta* agreeth: And by *Fleta* it appeareth that this Turn was the Shyreeces course to keepe his court in euery Hundred. *lib. 2. cap. 32. in princip.* So that as the inferiour courts had their times to take knowledge of those, and other causes belonging to their cognisance: So the Shyreecue had his course or turne to doe the like at these two seuerall seasons. That if there were any defects in them, it might be redressed in these, and Gods peace and the Kings so much the more carefully obserued. This, as *Lamberd* saith, was of old called also

also the Shyreuees moore, *lib. 4. cap. 4.* In this court (as Britton saith *ubi supra*) the Shyreuee causeth to be found out 12. of the most sage, loyall and sufficient men of all the Hundred (for he kept his turne twice every yeare in each Hundred. *Magna charta, cap. 35.* & Britton *ubi supra*) whome he charged vpon their oathes, to present the truth touching the articles ministred vnto them, and set downe by Britton in the same chapter. This done he put all other to their oathes, according to their dozins and villages, truly to present vnto the former twelue all things concerning such articles, as by them they should be asked of. But since the Hundred courts are all called to the county by the statute *anno. 14. Ed. 3. cap. 2. Statut. pri.* these Turnes be likewise kept in one cheife place of euery shire, and not seuerally in euery Hundred, as before they were. Of this you may reade more in Britton or in Crompton's *Iurisdiction fol. 230.* and in the *Mirror of Iustices, lib. pri. cap. de Turnes.*

Turney (*Torneamentum*) cometh of the French (*Tourney. i. Decursorium*) It signifieth a martiall exercise of Knights or Souldiers fighting one with another in disport, and is thus

defined. *ca. felix Extra de Torneamentis Torneamenta dicuntur Nundinae vel feria, in quibus milites ex condito conuenire, & ad ostentationem virium suarum, & audacia, temere congregi solent.* This word is vsed in the statute, *anno. 24. Henric. octau. capit. 13.* and as I haue heard, it signifieth with vs in England those combats, that are made with arming swords on horsebacke. And I thinke the reason of the name to proceede from the French (*Tourner. i. vertere*) because it consisteth much in agilitie both of horse and man.

*Turnovercomitum*, is a writ, that lyeth for those that are called to the Shyreuees turne out of their owne Hundred. *Register orig. fol. 174.*

*Tuain nithes gest. (hostes duarum noctium)* Roger Howeden, *parte poster. suorum annalium fol. 345. b.* who if he did harme to any, his hoste was not answerable for it, but himselfe. See *Thrid nithes hawan man.*

*Twelue men (Duodecim homines legales)* is a number of twelue persons, or vpwards to the number of 24. by whose discretion all tryals passe both in ciuill and criminall causes, through all courts of the common law in this Realme. First for ciuile causes, when prooffe is made of the



mater in question, as the parties and their counsell thinke good, on both sides, the point of the fact, that they are to giue their verdict of, is deliuered likewise vnto them, which we call the issue: and then are they put in minde of their oath formerly taken, to doe right betweene party and party, and so sent out of the court seuerally by themselves to consider vpon the evidence of both sides, vntill they be agreed; which done they returne to the court againe, and deliuer their verdict by the mouth of the foreman. And according to this verdict, Iudgement afterward passeth, either condemnatorie for the plantife, or absolutory for the Defendant. These 12. be called 12. *milites*. *Glauile*, lib. 2. cap. 14. & 15. and so be they in *Bracton* diuers times: but that word is altered.

In causes criminall there be two sorts of Enquests, one called the graund Enquest, and the other the Enquest of life and death. The graund Enquest is so called, either because it consisteth commonly of a greater number then 12. as of 24. 18. or 16. at the least, or els because all causes criminall or penall first passe through them: whereas the other Enquest is especially appointed for one or

few maters touching life and death, committed to their considerations. Those of the grand Enquest are also called by *Bracton* 12. *milites* lib. 3. *tracta*. 2. cap. pri. nu. 2. because they were wont to be Knights, as it seemeth, and not inferiours, except so many knights could not be found. *Idem eodem num.* 1. *in fine*. And their function is to receiue all presentments made vnto them of any offence, and accordingly to giue their generall opinion of the presentment by writing either these words (*Billa vera*) vpon the bille of presentment, which is an Inditement of the party presented: or els this word (*Ignoramus*) which is an absolving of him. Now as criminall causes be of two sortes, either capitall touching life and member, or finable: so is there a double course of these Inditements. For in causes onely finable, the party indited must either trauers the Inditement by denying it and so it is referred to a petit Iury, whereby he is either conuicted or discharged of the crime, or els he confessing it, the court setteth his fine vpon his head without more worke. But in maters of life and death, the party indited is commaunded to hold vp his hād, & answer (guilty) or (not guilty) if (guilty) he standeth conuicted by his owne confession.

feſſion: if (not guilty) he is farther referred to the Enqueſt of life and death: which conſider vpon the prooſe brought againſt the priſoner, and accordingly bring in their verdict, (Guilty) or (not Guilty) So is he iudged to dye, or deliuered by the court. Of this read more in Inditement. Aſſiſe, Iury, See the ſtatute *anno 35. H. 8. cap. 6. & 37. eiusdem cap, 22. & anno 2. Ed. 6 cap. 32. & an. 5. El. ca. 25.*

## V

**V**acation (*vacatio*) hath an eſpeciall ſignification in this kingdome, being vſed for all that time reſpectiueſly which paſſeth betweene terme and terme at London. And when ſuch times begunne and ended in our annceſters daies, ſee Roger Hovedens *annals parte poſteriori fo. 343. a.* where you ſhall find that this intermiſſion was called (*pax Dei & eccleſie.*)

*Vaccarie, alius vacharie* (*vac-caria, alius vacheria*) ſemeth to be a houſe to keepe kine in, *Fleta lib. 2. cap. 41. §. Item inquiratur 12. and Cromptons Iuriſd. fol. 194.* in theſe words: without warrant no ſubieſt may haue within the Forreſt a vacarie. But in the ſtatute *anno 37. H. 8. cap. 16.* I finde vacharie to be, as it were a ſpeciall proper name of a certaine quantitie and compaſſe of ground within the fo-

reit of *Aſhedowne.*

*Valewe* (*valentia, valor*) The word is in it ſelfe plaine enough: But I cannot omitte one place in *M. Weſt. parte. 2. Symbol. ſitulo Inditements, ſect. 70. V. W.* touching the difference betweene value and price. Theſe be his words, And the value of thoſe things, in which offences are committed, is vſually comprized in Inditements, which ſeemeth neceſſary in theſt, to make a difference from petit larceny: and in trespas, to aggravate the faulte, and increaſe the fine. But no price of rhings *ſere natura*, may be expreſſed, as of deere, of hares &c. if they be not in Parks and warrens, which is a liberty *anno 8. Ed. 4. fol. 5.* nor of charters of land. And where the number of the things taken are to be expreſſed in the Inditement, as of yong Doues in a Doue houſe, yong haukes in a wood, there muſt be ſaide (*pretii*) or (*ad valentiam*) but of diuers deade things (*ad valentiam*) and not (*pretii*) of coine not current, it ſhalbe (*pretii*) but of coine current, it ſhall neither be ſaide (*pretii*) nor (*ad valentiam*) for the price and value thereof is certaine. But of counterfeit coine, ſhall bee ſaid (*ad valentiam*) and in couterfeiting of coine ſhall not be ſaid (*decem libras in denariis*)



*vis Domina Regina*) nor (*in pecunia Domina Regine*) but (*ad instar pecunie Domine Regine*).

*Valour of marriage* (*Valore maritaggi*) is a writ that lyeth for the Lord, hauing profered conuenable marriage to the Infant, without disparidgement, against the Infant, comming to his yeares, if he refuse to take the Lords offer. And it is to recouer the value of the marriage, *Regist. orig. fol. 164. old. nat. br. fol. 90.*

*Variance*, commeth of the French (*varier. i. alterare*) it signifieth in the common lawe, an alteration, or change of condition after a thing done. For example, the communalty of a towne make a composition with an Abbot. Afterward this towne by a graunt from the king obtineith Bayliffes. This is a variance, and in this case, if the Abbot comence any suite for breach of the composition, he must varie from the words of the communalty set downe in the Composition, and begin against the Bayliffes and the Communalities. *Brooke tit. Variance. fol. 292.* It is also vsed for an alteration of some thing formerly laide in a plee, which is easilier knowne what it is, then when it may be vsed as it appeareth by *Brooke* through the whole title aforesaide: See *Variance* in the newe booke of

*Entries.*

*Vassall*, (*vassallus*) signifieth him, that holdeth land in fee of his Lord, *Hot. verbo Feudal*: we call him more vsually a tenant in fee: whereof some owe fidelitie and seruice, and are called *vassalli iurati*: some that owe neither, and are called *vassalli iniurati*. But of this later sort, I thinke that in *England* we haue not any. Of these thus writeth *Hotoman* in his disputations vpon the Feuds, *cap. 3.* *Proprie is vassa dicitur, qui ab Imperatore regale feudum accepit, vassallus autem ex proprio diminutiuo nomine qui ab illo feudale beneficium adeptus est: quasi qui in vassi fide & clientela est. &c.* *M. Skene de verbor. signif. verb.* *Ligentia*, saith, that *vassallus* is diuided into *homologum*, & *non homologum*. *Homologus* is he that sweareth seruice with exception of a higher Lord: and *non homologus*, is he that sweareth with out exception, all one with *Ligens*. And the same author *verb.* *Vassallus*, saith, that it is *vassallus*, *quasi bassallus, id est, inferior socius*. From the French (*bas. i. humilis, dimissus*) and the Dutch word (*gesel. i. socius*): his reason is, because the *vassall* is inferior to his master, and must serue and reuerence him: and yet he is in maner his companion, because each of them is obliged

one to the other. He saith farther out of *Cuiacius, lib. prim. de Feud.* that *leodes, leodes, fideles, homines nostri, feudatarii, ministeriales, beneficiarii, beneficiari, vassalli*, signifie almost all one thing. And a litle after he saith thus: In the lawes of the Feuds, *vassallus* is called *fidelis, quia fidelitatem iurat*. Amongst vassals the first place of dignitie is giuen to them, that are *Duces, Marchiones, Comites*, and are called *Capitanei Regni*. The second is granted to Barons and others of like estate, and are called *Valvasores Maiores*. The third to them who are called *Gentlemen* or *Nobles* holding of Barons, which also may haue vnder them vassals that be *Gentlemen*. And such vassals holding in chiefe of Barons, are called *Valvasores minores*. And they which hold of *Gentlemen*, are called *vassalli, valvassini, seu minimi valvasores*. But in this Realm (he speaketh of *Scotland*) they that hold of Barons, are called *Milites*, and they that hold of them, are called *subvassores*. Thus saith *M. Skene*.

*Vasto*, is a writ that lyeth for the heire against the tenent for terme of life or of yeares, for making waste, or for him in the Reuerſion or Remainder. *Fitzb. nat. br. fol. 55. Regist. orig. fol. 72. & 76. and Regist. Indic. fol. 17.*

21. 23. & 69. v. anno 6. Ed. princap. 5.

*Vavasour* (*vavasor, alias, valvasor*) is one that in dignitie is next vnto Baron. *Camden Britan. pag. 109. Bracton lib. prim. cap. 8* saith thus of this kind of men. *Sunt & alii potentes sub Rege, qui dicuntur Barones, hoc est, robur belli: sunt & alii qui dicuntur Vavasores, viri magnae dignitatis. Vavasor enim, nihil melius dici poterit, quam vas sortitum ad valetudinem. Iacobus de Franchis in praedio Feudorum. tit. prim. num. 4. & c.* calleth them *valvasores*, and giueth this reason of it: *Quia assident valvae. i. porta Domini in festis, in quibus consueverunt homines curtizare & eis reuerentiam exhibere, propter Beneficium eis collatum, sicut libertus patrono: M. Camden. in his Britan. pag. 108.* hath these words of them. *Primus etiam Normannorum temporibus, & Thani proximi a Comitibus in dignitate censebantur. Et valvasores maiores (illis qui de feudis scribunt credimus) idem fuerunt Barones.*

*Venditioni exponas*, is a writ Iudiciall, directed to the Vnderſhyrecue, commaunding him to sell goods that he hath formerly by commaundement taken into his hands, for the satisfying of a iudgement giuen in the kings Court. *Register Iudicial. fol. 33. b.*



*Venire facias*, is a writ Iudicall, and goeth out of the Record, lying where two parties plead and come to issue. *sc:* vpon the saying of the country. For then the party plaintiffe, or Defendant shall haue this writ directed to the Shyreue, that he cause to come twelue lawfull men of the same country, to say the truth vpon the sayd issue taken. And if the Enquest come not at the day of this writ returned, then shall goe a *habeas corpora*, and after a distresse vntill they come. *old. nat. br. fol. 157.* See how diuersly this writ is vsed in the table of the Register Iudicall. There is also a writ of this name, that is originall, as appeareth in the Register orig. fol. 200. b. which *M. Lamberd* in his processes annexed to his *Eirenarcha* saith to be the common proces vpon any presentment not being felony, nor especially appointed for the fault presented by statute. Whereof he setteth downe an example in the same place. See also the new booke of Entries. verbo Enquest fol. 253. columna. 1. 2. & 3.

*Venire facias tot matronas.* See *Ventre inspiciendo.* See *Lamb. Eirenarcha*, li. 4. ca. 14. pa. 532.

*Venew (vicinietum)* is taken for a neighbour or neare place. As for example twelue of the Assise ought to be of the same *Venew*

where the Demaund is made. *old. nat. br. fol. 115.* and in the statute anno 4. H. 4. ca. 26. & anno 25. H. 8. ca. 6. I finde these words: And also shall returne in euery such panell vpon the (*venire facias*) sixe sufficient Hundreders at the least, if there be so many within the Hundred, where the *Venew* lyeth.

*Ventre inspiciendo*, is a writ for the search of a woman that saith shee is with childe, and thereby withhouldeth land from him that is the next heire at the common law. Register originall fol. 227. a.

*Verdour (viridarius)* commeth of the French (*verdior. i. Saltuarius, vel custos nemoris*) he is (as *M. Mannwood parte pri:* of his forest lawes pag. 332. defineth him) a Iudicall officer of the Kings forest, chosen by the King, in the full county of the same shire, within the forest, where he doth dwell, and is sworne to maintaine, and keepe the Assises of the forest, and also to view, receiue, and inrolle, the Attachments and presentments of all maner of trespassses of the forest of vert, and venison. And the same authour vpon the first article of *Cannusius* charter, in the beginning of the same part, saith, that these in the Saxons times were called (*Pagened*) being foure in number, and they chiefe

chiefe men of the forest, as then they were. Their fee was in *Canuus* time, each of them euery yeare of the Kings allowance, two horses, one of them with a saddle, another of them without a saddle, one sword, five lauelins, one speare, one shield, and ten pounds in money. These foure (as appeareth by the said charter, *nu. 11.*) had *regalempoestatem*, and might proceede to a threefold iudgement: And if any man offered them, or any of them violence, if he were a free man, he should loose his freedom, and all that he had: if a villein, he should loose his right hand. All the officers of the forest were to be corrected and punished by them, *ibidem, nu. 10.* The verdour is made by the Kings writ. *Cromptons Iurisd. fol. 165.* the forme of which writ you haue in *Fitzb. nat. br. fol. 164.* which is directed to the Shyreue for the choice of him in a full County, by the assent of the said County. Yet if a verdour bee sodainely sicke or dead at the time of the Iustice seate, a new may be chosen without a writ. *Manwood parte prim. pag. 72.* the office is (as *Crompton* saith) *loco allegato*) properly to looke to the vert, and to see that it be wel maintained. Also when any forfeiture is taken in the Forest be-

fore the Foristers, or other ministers: the price thereof shall be deliuered to the verdour, who is to answer for it before the Iustices in Eyre. And if he die, his heire is chargeable therewith. *Crompton ibidem.* The forme of his oath at his admittance you may see in *Manwoods* first part of his Forest lawes. *pag. 51.* who there calleth him *verderowr, alias, verditor.* You shall truly serue our Soueraigne Lord the King in the office of a *verderor* of the Forest W. you shall to the vttermost of your power, and knowledge, do for the profit of the King, so farre as it doth apperteine vnto you to do. You shall preserue and maintaine the auncient rights and franchises of his Crowne: you shall not conceale from his Maiestie any rights or priuiledges, nor any offence either in vert or venison, or any other thing. You shall not withdraw, nor abridge any defaults, but shal endeouour your selfe to manifest and redresse the same, and if you cannot doe that of your selfe, you shall giue knowledge thereof vnto the King, or vnto his Iustice of the Forest. You shall deale indifferently with all the Kings liege people: you shall execute the lawes of the Forest, and do equall right and iustice, as well vnto the poore, as vnto the rich



in that appertaineth vnto your office: you shall not oppresse any person by colour thereof, for any reward, fauour or malice. All these things you shall to the vttermost of your power obserue and keepe. Their office is farther expressed, *eodem pag. 93.* which is to sit in the court of attachment, to see the attachments of the Forrest, to receiue the same of the Forresters and Woodwardes, that do present them, and then to enter these Attachments into their rolles.

*Verdict, (veredictum)* is the answer of a Iurie or Enquest made vpon any cause ciuill or criminall, committed by the court to their consideration or triall. And this verdict is two-fold: either generall or especiall. *Starrf. pl. cor. lib. 3. cap. 9.* A general verdict is that, which is giuen or brought into the Court, in like generall termes: to the generall issue: as in an action of *disseisin* the Defendant pleadeth, *No wrong, no disseisin.* Then the issue is this in generall, whether the fact in question be a wrong or not. And this committed to the Iurie, they vpon consideration of their euidence, come in and say, either for the plaintiffe, that it is a wrong, and disseisin: or for the Defendant, that it is no wrong, no disseisin. And againe, the pri-

soner at the barre pleading, Not guiltie: the Enquest in like generall termes bring in their verdict, either for the King, Guilty, or for the prisoner, Not guilty. A speciall verdict is that, whereby they say at large, that such a thing, and such, they find to be done by the Defendant, or Tenant, so declaring the course of the fact, as in their opinions it is proued: and for the quality of the fact, they pray the discretion of the Court. And this speciall verdict, if it containe any ample declaration of the cause, from the beginning to the end, is also called a verdict at large. Whereof reade diuers examples in *Starrf. pl. cor. lib. 3. cap. 9.* and one or two in *Littleton. fol. 78. & 79.* See the new booke of Entries, *verb. Verdict.*

*Verge (virgata)* may seeme to come from the French (*verger* i. *viridarium, hortus.*) It is vled here in England for the compasse about the Kings court, that boundeth the iurisdiction of the Lord Steward of the Kings household, and of the the Coroner of the Kings house, and that seemeth to haue bene 12. miles compasse. *anno 13. R. 2. Stat. prim. cap. 3. & Fitz. nat. br. fol. 241. B. and Britton. fol. 68 b. 69. a. and Fleta lib. 2. cap. 2. and Sir Edward Cookes Reports. li. 4. fol. 47. a.* For this see the Sta-

tute anno 33. H. 8. cap. 12. toward the end. But *Fleta* saith, that this compasse about the Court is called *virgata*, *a virga*, *quam Marisballus portat ut signū sue potestatis. lib. 2. cap. 4. § prim.* Verge hath also another signification, and is vsed for a sticke, or rodde, whereby one is admitted tenant, and holding it in his hand sweareth fealtie, ynto the Lord of a maner: who for that cause is called Tenent by the verge. *old nat. br. fol. 17.*

*Vergers*, (*virgatores*) be such as carry white wands before the Iustices of either banke, &c. *Fleta lib. 2. cap. 38.* otherwise called Porters of the verge.

*Very Lord*, and *very Tenent* (*verus Dominus*, & *verus Tenens*) are they that be immediate Lord & Tenent one to the other; *Brooke. titulo, Hariot. fol. 23.* In the *old nat. br.* and in the writ (*Replegiare de averiis. fol. 42.* I find these words: And know ye that in taking of leases, six things are necessarie: that is to say, very Lord and very tenent, Service behind, the day of the taking, seisin of the seruices, and within his Fee. And know ye, that a man is not very tenent, vntill he haue attuned to the Lord by some seruices. So that by *Brooke*, the very Lord, and the very Tenent, must be immediate, and by this booke there must be

an acknowledgement. See *an. 19. H. 7. cap. 15.* See *Tenant.*

*Vert*, (*viride*) is made of the French (*verd. i. viridis*) and signifieth with vs in the lawes of the Forest, euery thing that doth growe, and beare greene lease, within the Forest, that may couer and hide a Deere. *Mamwood* in the second part of his Forest lawes, *fol. 6. a. and fol. 33. b.* (with whom also *Crompton* agreeth, *fol. 170.* of his Iurisd.) And vert (as the same author saith, *codem. fol. 34.*) is diuided into *Ouer vert*, and *Neather vert*. *Ouer vert*, is that, which the Lawyers call (*Hault bois*) and *Neather vert*, is that which they call (*South bois.*) And of this you may reade him in his second part of Forest lawes. *cap. 6. per totum.* Where you shall find, that he diuideth vert into generall, and speciall: Generall is, as it is aboue defined: vert speciall, is euery tree and bush within the Forest to feed the Deere withall: as Peare trees, Crabtrees, Hawthornes, Blackbush, and such like. And the reason of this name is, because the offence of destroying of such vert, is more highly punished, then of any other, according to the quantity thereof. *cod. ca. 6. nu. 2. fol. 35. a.*

*Vervise*, otherwise called Plonkets. *anno. 1. R. 3. cap. 8.* a kind of clothe.



Vesses. anno 1. R. 3. cap. 8. & anno 14. & 15. H. 8. cap. 11. otherwise called, Set clothes.

*Vesture* (*vestitura*) is a French word signifying a garment: but in the vse of our common lawe, turned metaphorically to betoken a possession, or an admittance to a possession. So it is taken, *Westm.* 2. c. 25. anno 13. Ed. prim. And in this signification is it borrowed from the Feudists, with whom (*Investitura*) signifieth a deliuerie of possession by a speare, or staffe, and *vestitura*, possession it selfe. *Hotoman. in verbis feudal. verbo Investitura.*

*Vesture of an acre of land. an.* 4. Ed. prim. stat. prim. is the profit of it. & anno 13. Edward. 1. cap. 25.

*Vice-treasurer of the Exchequer* 1. Iacob. 26. See *Vnder-treasurer of England.* See *Treasurer of the Exchequer.*

*View of frank pledge*, (*visus Franci plegii*) is the office which the Shyreue in his Countie court, or the Bayliffe in his Hundred, performeth in looking to the Kings peace, and seeing that euery free man be in some pledge. This is called of *Bracton li. 2. ca. 5. nu. 7. in fine.* *Res quasi sacra, quia solam personam Regis respicit, & quod introductus sit pro pace & communi utilitate. eodem, ca. 16. nu. 8. in fine.* See *frank*

*pledge*, and *Leete*, and *Decennier.* See the new booke of *Entries.* verb: *view of frank pledge.*

*Veours* (*viores*) commeth of the French (*Veoyr. i. cernere, intreri, despicere, prospicere, videre*) and signifieth in our common lawe those, that are sent by the court to take view of any place in question, for the beter descision of the right: *old. nat. br. fol. 112.* See doth *Bracton*, vse it *lib. 5. tract. 3. cap. 8. per totum.* It signifieth also those, that are sent to view such as essoine themselves *de malo leiti*, whether they be in truth so sicke, as they cannot appeare, or whether they counterfeit. *Bracton lib. 5. tracta. 2. cap. 10. & cap. 14. per totum.* Lastly it is vsed for those that are sent or appointed to view an offence, as a man murdered, or a Virgin rauished. See *View.*

*Vicario deliberando occasione cuiusdam Recognitionis, &c.* is a writ that lyeth for a spirituall person imprisoned vpon forfeiture of a Recognisance, without the Kings writ. *Reg. orig. fol. 147.* See *statuto mercatorio contra personam ecclesiasticam.*

*Vicis & venellis mundandis*, is a writ that lyeth for a Maior and Bayliffes of a towne, &c. For the cleane keeping of their streets. *Register orig. fol. 267. b.*

*View* (*visus*) commeth of the French

French (*vene. i. visus*, *aspectus*, *conspetus*, *prospetus*) and signifieth with vs, the act of viewers. For (as the author of the *Termes of lawe* saith) when any action reall is brought, and the Tenent knoweth not well what land it is, that the Demandant asketh, then he may pray the view: that is to say, that he may see the land, which is claimed: of this *Britton* speaketh, *cap. 45.* This point of proceeding we haue receiued from the Normans, as it appeareth by the *Grand custumarie. cap. 66.* where you shall reade to this effect. It is to be knowne that there bee diuers sorts of views: one of a fee, another of a man in sicknes, another of an offence, as of a man slaine, or of a Virgin deflowred: all which he describeth in that place, and againe, *cap. 80. & 96.* which are worth the reading: this view at this day is vsed in an Assise of rent seruice, rent charge, or rent seck. *Fitzh. nat. br. fol. 178. D.* and in a writ *de Curia claudenda. Idem, fol. 128. B.* In a writ of *Nusance. Idem, fol. 183. L. N. O.* In a writ *Quotum. Idem, fol. 128. L.* In the writ *de rationalibus dinisis. Idem, fol. 129. D.* And in the writ *de secta admaliendum. Idem, fol. 123. B.* See the new booke of *Entries. verbo: View.* and see *Fleta* how this view is made.

*lib. 4. ca. 6.* See *Veiwors.*

*Vicechamberlaine*, called *underchamberlaine* anno 13. R. 2. *stat. 2. cap. 1.* is a great officer in court next vnder the Lord Chamberlaine, and in his absence, hath the command and controlmēt of all officers superior & inferiour whatsoeuer appertaining to that part of his maiesties household, which is called the chamber, wherein is included as well the bedde chamber, as the priuy chamber, the presence and the great Chamber and all other roomes, as galleries, &c. thereto belonging, with the Councell chamber, priue closet, &c. And in the Lord Chamberlaines absence he keepeth his table in the great chamber, commanding and overseeing the attendance of all, to whome it appertaineth to be ready and waiting on his maiestie going to the chapell, or to speake with ambassadours, or els walking or riding forth.

*Vicount*, alias *Viscount* (*vicecomes*) commeth of the French (*vicompte. i. Procomes*) and signifieth with vs as much as *Shyreue*. Betweene which two words I finde no other difference, but that the one commeth from our Conquerours the Normans, and the other from our Aunccesters the Saxons, wherefore see



more of this in *Shyreue*. Vicount also signifieth a degree of nobility next vnto an Earle, which (as *M. Cam. Brita. p. 107.* saith) is an old name of office, but a newe one of dignitie, neuer heard of amongst vs, vntill Henry the sixth his daies. But this degree of honour is more auncient farre in other countries. *Cassan. in gloria mundi, parte 5. confid. 55.* whome you may reade.

*Vicountie*, is an adiectiue made of *vicountie*, and signifieth as much, as belöging to the vicount; as writs *vicountiel* are such writs as are triable in the countie or *Shyreue*s court. *old. nat. br. fol. 109.* Of this kinde you may see diuers writs of *Nusance* set downe by *Fitzh.* in his *nat. br. fol. 184. b.* There be also certaine fermes called *Vicountiels*, which the *Shyreue* for his time payeth a certainer rent for to the King, and maketh what profit he can of them. See the statutes, *anno 33. & 34. H. 8. ca. 16. & anno 2. & 3. Ed. 6. ca. 4.* and *anno 4. H. quint. capite secund.*

*Vilaica removenda*, is a writ that lyeth for the remoöving of forcible possession of a benefice kept by lay men. And this writ is graunted some time vpon the Certificate of the Bishop into the Chauncerie, that there is

such a force in his Dioces: some time vpon a surmise made there of by the Incumbent himselse, without the certificat of the Bishop, and hath a fenerall forme for either case. *Fitzh. nat. br. fol. 54. Register orig. fol. 59. & 60.*

*Villanis Regis subtractis reducendis*, is a writ that lieth for the bringing back of the kings bondmen, that haue beene caried away by others out of his maners, wherevnto they belonged, *Register origin. fol. 87. b.*

*Villein* (*villanus*) commeth of the French (*vilain. i. illiberalis, impurus, vilis, turpis*) and signifieth in our common lawe a bondman, or as much as *Servus* among the Ciuilians. Of these there betwo sorts in England, as *Sir Tho. Smith* saith in his *repub. Angl. li. 3. cap. 8.* one termed a *Villein* in grosse, which is immediately bound to the persons of his Lord and his heires, the other a *villein* regardant to a maner, whome the Ciuilians terme (*Gleba ascriptum*) being bound to their Lord, as members belonging and annexed to such a maner, whereof the Lord is owner. This diuision is affirmed by diuers places of our common lawe writers: as in the *old. nat. br. fol. 8.* You haue these words. Knowye that a woman shall be

be indowed with a villein in grosse, &c. and againe. fol. 39. If a man doe menace or threaten any villeins, which are regardant to a maner, &c. Bracton hath another diuision of villeins, which is all one with the Ciuilians. For in his first booke, cap. 6. nu. 4. he saith thus: *Servi autem nascuntur aut sunt*, and then thus goeth forward: *Nascuntur ex nativo & natua alicuius copularis vel solutis, siue sub potestate Domini constituti sint, siue extra potestatem. Item nascitur seruus, qui ex natua soluta generatur, quamvis ex patre libero: quia sequitur conditionem matris quasi vulgo conceptus, &c.* And after diuers things deliuered of this sort, he saith againe thus: *Fiunt etiam servi liberi homines captiuitate de iure Gentium: &c.* Fit etiam seruus liber homo pro confessione in Curia Regis factam: ut cum liber homo sit in Curia Regis, & se cognoscat ad villanum. Item liber homo fit seruus, si cum semel manumissus fuerit, ob ingratitudinem in seruitutem reuocetur. Item fit liber homo seruus, cum ab initio clericus vel monachus factus fuerit, postea ad secularem vitam redierit. Quia talis restitui debet Domino suo. v. Trauellum de Nobilitate. cap. 2. pag. 14. nu. 54. In very many provinces of Fraunce there be certaine men called (*homines manus mortue*, qui tanta iuris simili-

tudine adscriptis colonis coniuncti, & prope iidem videntur. Non autem servi sunt omnino, sed in territorio domini sunt, tanquam alligati, non habentes demigrandi potestatem. Itaq; serui corporis & prosecutionis vulgo dicuntur, quod si fugerint, potest eos prosequi dominus & capere. Tributum autem istud & nonnullas commoditates domino prestant: in quibus hec maxima, quod ipsis vita fundis sine sobole, succedit dominus vel ex toto vel ex parte. Comanus. li. 2. cap. 10. nu. 3. whose words I thought not vnsit for this place, because they expresse the nature of our villenage somthing aptly.

*Villem fleeces*: anno 31. Ed. 3. cap. 8. are fleeces of wolfe that are thorne from scabbed sheepe

*Vidimus*, anno 15. H. 6. ca. 3.

Villenage (*Villanagium*) cometh of (*vilkin*) and signifieth a seruite kinde of tenure belonging to lands or tenements; that is, a tenure of lands or tenements, by such a seruice, as villeins are fittest to performe. For euery one that houldeth in villenage, is not a villem, or a bond man. *Villanagium* vel *seruitum* nihil detrakit libertatis, habita tamen distinctione, utrum tales sint villani, & tenuerint in villano soccagio de dominico Domini Regis. Bracton, lib. pri. ca. 6. nu. pri. Britton in his 66. chapter speaketh to this effect.



effect: Villenage is a tenure of the demesns of a Lord deliuered to a Tenent at the Lords will, by villenous seruices, to improoue it to the Lords vse, and deliuered by the rodde, and not by any title of writing, or succession of inheritance, &c. And a litle after he hath words to this effect: In the maners of our auncient Demesns, there be pure villeins both by blood and tenure: the which may be cast out of their tenement, and deprived of their chatels, at the pleasure of the Lord. By which two places I gather, though villein tenure doe not alway make the Tenent a villein: yet that there is a twofold tenure called villenage: one wherein both the persō & the tenure is bound, and in all respects at the disposition of the Lord: and another, which in respect of the tenure is after a sort seruile, though the person be not bond. This is well proued by *Bracton*, li. 2. ca. 8. nu. 3. in these words. *Item tenementum non mutat statum liberi, non magis quam serui: Poterit enim liber homo tenere purum villenagium, faciendo quicquid ad villanum pertinebit, & nihilo-minus liber erit, cum hoc faciat ratione villenagii, & non persona sua: & ideo poterit, quando voluerit, villenagium deserere, & liber discedere, nisi illaqueatus sit per uxorem natiuam ad hoc faciendum, ad*

*quam ingressus fuit in villenagium, & que prestare poterit impedimentum, &c.* So that a man may hold in pure villenage, and yet be a free man in respect of his person. But what is pure villenage? *Bracton* answereth in the words there next following: *Purum villenagium est, a quo prestatur seruitium incertum & indeterminatum, ubi sciri non poterit vespere, quale seruitium fieri debet mane. viz: ubi quis facere tenetur quicquid ei preceptum fuerit.* The other sort of villenage which is not pure, is there called of *Bracton* (*villanum foccagium*) which differeth from the other in this, because it is onely tyed to the performnce of certaine seruices agreed vpon betweene the Lord and the Tenent. Whereof see *Bracton* also in the same place: by whom you may perceiue, that a man may hold (*per villanum foccagium*) and yet haue (*liberum tenementum*) if he haue it to himselfe and his heires. This villanous foccage is to cary the Lords dung into his feilds, to plow his ground at certaine daies, sow and reape his corne, plash his hedges, &c. See *Soc-cage*.

*Villenous iudgement* (*Villanum indicium*) is that which casteth the reproch of villeny and shame vpon him against whom it is giuen, as a Conspiratour, &c.

*Stawf:*

*Stawnf. pl. cor. lib. 3. 12. f. 175.* This *M. Lamb:* in his *Eirenarcha, lib. 1. ca. 13. pag. 63.* calleth villenous punishment, and saith that it may well be called infamous, because the iudgement in such a case shalbe like the auncient iudgement in Attaint (as it is said *anno 4. H. 5. Fitzh. Iudgement 220.*) and is (in *27. lib. Assis. pl. 59.*) set downe to be, that their oathes shall not be of any credit afterward, nor lawfull for them in person to aproch the Kings Courts: and that their lands and goods be seised into the Kings hands, their trees rooted vp, and their bodies imprisoned, &c. And at this day the punishmēt appointed for periury, (hauing somewhat more in it, then corporall or pecuniary paine) stretching to the discrediting of the testimony of the offender from euer after, may be partaker of this name. Thus farre *M. Lamberd.*

*Vergata terra. Register orig. fol. 167. a. See yard land.*

*Vridario eligendo*, is a writ that lyeth for the choice of a verdour in the forest. *Register orig. fol. 177.*

*Visitation of maners (Visitatio morum)* was wont to be the name of the Regarders office in auncient time. *Manwood, parte pri. of his foretst lawes, pag. 195.* See *Regarder.*

*Visne (Vicinetum)* signifieth a

neighbour place, or a place neere at hand *anno 16. R. 2. ca. 6.*

*Vifa Franciplegii*, is a writ to exempt him from comming to the view of Frankpledge, that is not within the Hundred resident. For men are bound vnto this view by reason of their habitation, and not of lands held where they dwell not, *Register orig. fol. 175.*

*Vitieller (vielnalarius)* cometh of the French, (*vielnalies. i. commeatus*) and signifieth with vs, him that selleth victuals. For these there is a writ in *Fitz. nat. br. fol. 172.* if they exercise their trade, bearing a magistracie in any towne incorporate.

*Vmple. anno 3. Edward. 4. cap. 5.*

*Vncoreprist*, is a plee for the Defendant, being siewed for a debt due at a day past, to saue the forfeiture of his bond; saying, that he tendered the debt at the time and place, and that there was none to receiue it, and that he is now also readie to pay the same. *7. Ed. 6. 83. Dyer. See Vnquest prist.*

*Vncub*, is a Saxon word signifying as much as (*incognitus*) It is vsed in the auncient Saxon lawes, for him that cometh to an Inne guest wise, and lyeth there for two nights at the most. In which case



his host was not bound to answer for any offence, that he committed, whereof he was guiltlesse himselfe. But if he laid there the third night, then he was called (*guest, hospes*) and the must the host answer for him, as for one of his owne familie. And if he taried any longer, then was he called *Agē hīne*, that is to say, *familiaris*. Whom, if he offend against the Kings peace, his hoste was to see foorthcomming: or if he could not bring him out within a moneth and a day, he must satisfie for his offence. *Lamberd. Archaiono. fol. 133. num. 7.* Of this *Bracton. lib. 3. cap. 10. num. 2.* writeth thus: *Item secundum antiquam consuetudinem dici poterit de familia alicuius, qui hospitatus fuerit cum alio per tres noctes: quia prima nocte poterit dici Vncuth, secunda verò Gust, tertiā nocte Hoghenhine, &c.* This law was made for the better preservation of the Kings peace, and to shew in what pledge euery man was to be accompted, that trauelled by the way. See *Tuamīnithes gest.*

*Vnde nihil habet*, is a writ. See *Dote vnde nihil habet.*

*Vnder-chamberlaine of the Exchequer*, is an Officer there, that cleaueth the taileys written by the Clerke of the Tailleys, and readeth the same, that the

Clerke of the Pel and the controllers thereof may see their entrie be true. He also maketh searches for all Records in the Treasurie. There be two Officers there of this name.

*Vnderescheatour. Subescheatour.* anno 5. Ed. 3. cap. 4. See *Escheatour.*

*Vnder-shyreene, (Subvicecomes)* See *Shyreene.*

*Vnderfitter* is an Inmate. See *Inmate.*

*Vndertakers*, be such as are employed by *Pourueyours* of the King as their deputies. anno 2. & 3. *Phil. & Mar. cap. 6.* and such as vndertake any great worke, as drying of Fennes, &c. anno 43. *Eliz. cap. 11.*

*Vnder-treasurer of England, (vice thesaurarius Anglie)* anno 39. *El. cap. 7.* & anno 43. *eiusdem. Subsidie of the Clergie.* This Officer (as some Exchequer men thinke) was first created in the time of king *H. the seuenth*, to chest vp the Kings Treasure at the end of euery Terme, and to note the content of money in each chest, and to see it caried to the Kings Treasurie in the Tower, for the ease of the Lord Treasurer, as being a thing too meane for him to be troubled with, and yet meete to be performed by a man of great secrecie and trust. He in the vacancie of the Lord Treasurers

surers office, doth all things in the receipt, that the Lord Treasurer doth. He nominateth the two Prayfers of all goods seised as not custumed, and ordereth, whether the partie shall haue them at the price or not. He appointeth the Steward, Cooke, and Butler for the prouision of the Starre-chamber. But this Officer in other mens iudgment, is farre more auncient then *Henry* the seuenths dayes, yet named Treasurer of the Exchequer in the Statutes vntill Queene *Elizabeths* time, where he is tearmed Vnder-treasurer of *England*. Neuerthelesse, anno 35 *Eliz.* he is also written Treasurer of the Exchequer. Read the Statutes, anno 18. *Ed.* 3. stat. 2. cap. 17. & 27. eiusdem. Stat. 2. cap. 18. 1. *Rich.* 2. cap. 5. 4. *Hen.* 4. cap. 18. 8. *H.* 6. cap. 17. 27. *H.* 8. cap. 11. with diuers other places, that seeme to approue this to be true.

*Vnion* (*vnio*) is a combining or consolidation of two Churches in one, which is done by the consent of the Bishop, the Patron, and the Incumbent. And this is properly called an *Vnion*. Howbeit, that there be two other sortes: as when one Church is made subiect to the other, and when one man is made Prelate of both, and when a conuentual is made Cathedrall, as you may

reade in the Glosse of the chapter, *Licet. De locato & conducto*, in *Lyndwoods* Prouincials. §. *Et quia. versus Appropriationis*. Touching *Vnion* in the first signification there was a statute, anno 37. *H.* 8. cap. 21. that it should be lawfull in two Churches, where of the value of the one is not aboue sixe pounds in the Kings bookes of the first frutes, and not aboue one mile distant from the other. *Vnion* in this signification is personall, that is, for the life of the Incumbent: or reall, that is, perpetuall, whosoever be Incumbent.

*Vnitie of possession*, is called *consolidatio usus fructus, & proprietatis* in the Ciuill lawe, signifying a ioynt possession of two rights by seuerall titles. For example, I take a lease of land from one vpon a certaine rent: afterward I buy the Fee-simple. This is an vnitie of possession, whereby the lease is extinguished: by reason that I, which had before the occupation only for my rent, am become Lord of the same, and am to pay my rent to none, but my selfe. Also an Abbot being seated within a certaine parish, afterward obtaineth an appropriation of the tythes belonging to that Church, for the vse of his house. Here is an vnity of possession, by reason that the tythes, which before were to be



Paid to the Incumbēt, are now to be paid to none but himselfe, by vertue of the appropriation.

*Vniuersitie*, (*Vniuersitas*) is by the Ciuill lawe any bodie politicke, or corporation: but in our language it is (at the least most ordinarily) taken for those two bodies, that are the Nourishes of learning, and the liberrall Sciences, *Cambridge* and *Oxford*: endowed with great fauours, and priuiledges, for their beter maintenance, as appeareth not onely by *an. 2. c. 3. Ph. & Mar. c. 15. a. 13. El. c. 21. & a. 18. eius. c. 6.* but much more by their seuerall charters, graunted vnto them by diuers godly and magnanimous Kings of this land.

*Vnlawfull assembly*, (*Illicita congregatio, illicita assemblata*) is the meeting of three or more persons together, with force to commit some vnlawfull act, and abiding stil, not indeuouring the execution thereof, as to assault or beate any person, to enter into his house or land, &c. *West. parte 2. symb. titulo, Indirements, sect. 65. M. Lam. in his Euenarcha. cap. 19.* saith thus: An vnlawfull assembly is the companie of three persons or more, gathered together, to do such an vnlawfull act, although they do it not indeed. So saith *Kirchm* in effect, *fol. 20.*

*Vnques prst.* is (word for

word) alwaies readie. And it signifieth a Plee, whereby a man professeth himselfe alway ready to do or performe that, which the Demaundant requireth, thereby to auoide charges. For example: a woman sheweth the tenent for her Dower: and he coming in at the first day, offereth to auerre, that he was alway ready and still is, to performe it. In this case except the Demaundant will auerre the contrarie, he shall recouer no dammages. When this Plee will serue to auoide Charges, and when not, see *Kut. fol. 243.* See *Vncore prst.*

*Voydance* (*vacatio*) is a want of an Incumbent vpon a benefice: and this voydance is double: either in law, as when a man hath more benefices incōpetible: or indeed, as when the Incumbēt is dead, or actually depriued. *Brooke, titulo Quare impedit. n. 51.*

*Voucher* (*Aduocatio*) is a calling in of one into the Court at the petition of a party that hopeth to be helped thereby. New booke of Entries. verbo. voucher. voucher de garantie Brit. ca. 75. in latine (*Aduocatio ad warrantizandum*) is a petition in court made by the Defendant to haue him called, of whom he or his Aunceller bought the land or tenement in question, and receiued warranty for the secure enioying thereof against all men.

*Brit.*

Britton of this writeth a long chapter. *ubi supra*, intituling it *Garant voucher*. But Bratton writeth a large tractate of it, *lib. 5. tracta. 4. per totum*. Littleton also handleth it not minislingly, in the last chapter of all his Tenures. Of this you may read Fitzb. also in his *nat. br. fol. 134. De warrantia charta*. All this law seemeth to haue bene brought into England out of Normandy. For in the Grand Custumary you haue likewise a chapter intituled (*vouchement de garant, cap. 50. id est, vocamentum Garanti*) where it is set downe, what time ought to be giuen, for the appearance of the warrant called in this case, how many warrants may be vouched, one calling in another, and diuers other points touching this doctrine. All which, and many more, you may read in Bratton *ubi supra*. A common voucher, a double voucher. Coke *lib. 2. Sir Hughe. Cholmeis case, fol. 50. b.* This is very answerable to the contract in the Ciuill lawe, whereby the buyer bindeth the seller, sometime in the simple value of the thing bought, sometime in the double, to warrant his secure enjoying of the thing bought. But this difference I find betweene the Ciuill lawe and ours, that whereas the Ciuill lawe bindeth euery man to warrant the secu-

ritie of that which hee selleth, ours doth not so, except it be especially couenanted. The party that voucheth in this case, is called the Tenent, the partie vouched is termed the Vouchee, The writ whereby he is called, is termed *Summonas ad warrantizandum*. And if the Shyreue return vpō that writ, that the party hath nothing, whereby he may be summoned: then goeth out another writ, *viz. Sequatur sub suo periculo*. See *Terms of the lawe. verbo Voucher*. And Lamb. in his Explication of Saxon wordes, *verbo Advocare*. See *Warrantie*. I reade in the new booke of Entries, of a *forain voucher*, which hath place properly in some Franchise, Countie Palatine, or other where one voucheth to warrantie one no dwelling within the Franchise. *fol. 615. columna. 1.* whereupon because the foreyner neede not be tryed in that Court, the record and cause is remooued to the common ples, &c. See of this Fitz. *nat. br. fol. 6. E.*

*Vser de action*, is the persiewing or bringing of an action, which in what place and countie it ought to be, See Brooke, *titulo Lieues Courtie. fol. 64.*

*Vse (usus)* is in the originall signification, plaine enough: but it hath a proper application in our common lawe, and that is



the profit or benefit of lands or tenements. And out of *M. Wests* first parte of his *symbol: lib. pri. sect. 48. 49. 50. 51. and 52.* I gather shortly thus much for this purpose. Euery deede in writing hath to be considered the substance, and the adiuncts. Touching the substance, a deede doth consist of two principall parts, namely the premisses and the consequents. The premisses is the former parte thereof, and is commonly saide to be all that, which preceedeth the (*Habendum*) or limitation of the estate, which be the persons contracting, and the things contracted. The consequent is that which foloweth the premisses, & that is the (*Habendum*) In which are two limitations: the one of the estate, or propertie, that the party passiue shall receiue by the deede, the other of the vse: which is to expresse in the said (*Habendum*) to or for what vse, and benefite he shall haue the same estate. And of the limitation of those vses, you may read many presidents set downe by the same author in his second booke of his saide first part, *sectio. 308.* and so forth to 327. These vses were inuented vpon the statute called, *West. 3. or Quia emptores terrarum*, before the which statute no vses were knowne. *Perkins. Devises. 528.* And be-

cause mens wits, had in time devised many deceits, by the setting of the possession in one man and the vse in another, there was a statute made, *anno, 27. H. 8. ca. 1.* whereby it was enacted, that the vse and possession of lands and possessions should alway stand vnitied. New expositour of lawe termes, *verbo. Vse. v. Coke lib. 1. Chudleise case. fol. 121. & seqq.*

*Vsher* (*Ostiarus*) commeth of the French (*Huissier. i. Accensus, apparitor, laxitor*) It signifieth with vs first an officer in the Eschequer: of which sort there be foure ordinarie vsers that attend the cheife officers and Barons of the court at *Westminster*, and Iuries, Shyreuees and all other accountants at the pleasure of the court. Therbe also Vsers in the Kings house, as of the priuy chamber, &c.

*Vias* (*Octava*) is the eight day following any terme or feast: as the *vias* of *Saint Michaell*, the *vias* of *Saint Hilary*, the *vias* of *Saint Martine*, of *Saint Iohn Baptist*, of the *Trinitie* &c. as you may reade. *anno 51. H. 3. stat.* concerning generall daies in the Benche. And any day betweene the feast and the eighth day, is saide to be within the *vias*. The vse of this is in the returne of writs, as appeareth by the same sta-

statute.

*Vifangthef*, is an auncient Royaltie graunted to a Lord of a maner, by the King which giueth him the punishment of a theefe dwelling out of his liberty, and hauing committed theft without the same, if he be taken within his fee. *Bracton. lib. 2. cap. 24.* who in his third booke, *tract. 2. ca. 35.* seemeth rather to interpret the word, then to expresse the effect, and saith thus. *Vifangthef dicitur extraneus latro, veniens alium de de terra aliena; & qui captus fuit in terra ipsius, qui tales habet libertates.* It seemeth to be compounded of these three words. *Ve, fang, thef.* which in our moderne English be, oute, take or taken, Theefe. Of this *Fleta* hath these words. *vifangenthes dicitur latro extraneus veniens alium de de terra aliena, & qui captus fuerit in terra ipsius qui tales habet libertates. Sed non sequitur quod possit ille hominem suum proprium extra libertatem suam captum reducere vsq; in libertatem, & ibi eum iudicare: reducere tamen poterit iudicatum, & iudicium in proprio patibulo exequi ratione libertatis: commodum tamen non video. Debet enim quilibet iuri subiacere, ubi deliquit: proprios tamen latrones & alienos iudicare possunt, dum tamen infra libertatem fuerint capti, &c.*

*Vilaghe*, significat bannitum

extra legem. *Fleta. li. 1. cap. 47.* See *Vilawrie*.

*Vilagato capiendo quando vlagatur in uno comitatu, & postea fugit in alium*, is a writ, the nature whereof is sufficiently expressed in the words set downe for the namethereof. See the Register originall, fo. 133.

*Vilawrie* (*vilagaria, aliàs vlagatio*) is a punishment for such as being called into lawe, and lawfully sought, doe contemptuously refuse to appeare. And as *Bracton* saith *li. 3. tract. 2. ca.*

11. He that is siewed must be sought, and called at .5. counties, a month being betweene euery countie, to answer to the lawe. And if he come not within that time, *pro ex lege tenebatur cum principi non obediat, nec legi: & ex tunc vlagabitur*: that is, as the author of the termes of lawe saith, he shalbe pronounced by the coroner, to be out of the Kings protection, and deprived of the benefit of the lawe. The effect of this is diuers (as the same Author saith). for if he be outlawed in an action personall, (he meaneth) at the suite of another in a ciuile cause: he shall forfeit all his goods and cattells to the King: if vpon felonie then he shall forfeit all his lands and tenements, that he hath in fee simple., or for terme of his life, and his goods and



and cattles. *Bracton: ubi supra, nu. 5.* saith, that such as be outlawed vpon felonie, *ex tunc gerunt caput lupinum, ita quod sine iudiciali inquisitione rite pereant, & secum suum iudicium portent & merito sine lege pereunt, qui secundum legem vivere recusarunt. Et hac ita, si cum capiendi fuerint, fugiant, vel se defendant si autem vivi capti fuerint, vel se reddiderint, vita illorum & mors erit in manu Domini Regis.* See *Horns mirrour of Iustices, lib. 3. cap. des fautes punissables.* *Bracton* saith in the place aboue specified (with whome also *Fleta* agreeth, *lib. 1. cap. 27.*) that a Minor or a woman cannot be outlawed. But take his owne words: *Minor verò, & qui infra etatem. 12. annorum fuerit, vel agari non potest, nec extra legem poni, quia ante talem etatem non est sub lege aliqua, nec in Decenna, non magis quam femina, que vitlagari non potest, quia ipsa non est sub lege. i. In laugb Anglice, sc: in fræcoplegio. sive decennæ: sicut masculus, 12. annorum, & ulterius. Et ideo non potest vitlagari. Wituiari tamen bene potest, & pro derelicta haberi, cum pro felonis aliqua fugam fecerit sue ceperit. Est enim waiuium, quod nullus aduocat, nec princeps eum aduocabit, nec iuebitur, cum fuerit rite Wituiata: sicut fit de masculo, qui secundum legem terre rite fuerit vitlagatus, &c.* To the same

effect writeth *Fitz b.* in his *na. br. fo. 161. v. 12.* And because women be not sworne in leetes to the King, as men be of the age of 12 yeares or vpward: it is said, when a woman is outlawed, that shee is waiaued, but not outlawed. for shee was neuer vnder the law, nor sworne vnto it. More of this you may reade in *Bracton, lib. 3. tracta. 2. cap. 12. & 13.* and then in the 14. how an outlaw is inlawed againe, and restored to the Kings peace and protection. See also *Fleta, lib. 1. cap. 28. per totum. Virum.* See *Affise.*

*Vter Baristers*, be such as for their longe study and great industry bestowed vpon the knowledge of the common lawe, be called out of their contemplation to practise, and in the face of the world to take vpon them the protection and defence of clients. These are in other countries called, (*Licentiati in iure*). How be it in modestie they still continue themselves hearers for diuers yeares, like the scholers of *Pythagoras*, that for the first fise yeres neuer aduentured to reason or discourse openly vpon any point of their masters Doctrine, which their silence (*a cohibendo sermone*) was termed *exordia* as *Suidas* and *Zenodorus* doe report.

*Vilepe significat escapium latro-  
rum. Fleta lib. 1. ca. 47.*

## W

**W**Age (*vadiare*) proceedeth of the French (*Gager. i. dare pignus, pignore certare*) and signifieth in our common lawe the giuing of securitie for the performing of any thing: as to wage lawe, & to wage deliuerance which see before in *Gage*. None wageth lawe against the King. *Brooke tit. Chose in action, num. 6.* The substantiue of this verb is (*Wager*) in the latine (*vadium*) which some Feudists call (*wadium*) as testifieth *Hotoman in his Commentaries de verbis feudalibus. verbo Wadium. See Lawe.*

*Wainage* (*Wainagium, alias Wainagium*) signifieth as much as *peculium servorum* of the Saxon word *wouen. i. habitare, & wocning. i. habitatio.* See *Gainage*.

*Waive* (*wainiare*) Register orig. fol. 277. a) is to forsake (*habere pro derelicto*) as the Ciuilians terme it. *Waiuare feudum suum. Bracton lib. 2. cap. 7.* that is to forsake. Many of the Kings liege people to be outlawed, and many waived by erroneous proces. anno 7. H. 4. ca. 13. See *Velawrie*. To waue the company of theeues. *Stawf. pl. cor. fol. 26.* To waue his benefit. *Idem fol.*

46. to waue the aduantage. *Idem prarog. fol. 17.* Persons attainted or waived. *West. parte 2. symbol. titulo Fines, sect. 13. D.* This word *wained wainiata* properly belongeth to a woman that being shewed in law contemptuously refuseth to appeare, as outlawed doth to a man. Register orig. fo. 132. b. & 277. a. The reason whercof see in *Fitzh. nat. br. fol. 161. A.* See *Weif*.

*Wales* (*Wallia*) is a part of England, on the west side inhabited by the offspring of the ancient Britons chased thither by the Saxons, being called hether by them to assist them against the might of the *Picts*. The reason of the appellation commeth from the Saxon (*wealh. i. exterius, vel peregrinus*) for so the Saxons both called them and held them, though now to the great quiet of this kingdome they be incorporated vnto vs See *M. Lamb: explication of Saxon words. verbo Wallus.*

*Walkers*, seeme to be those that are otherwise called *Foresters*. *Crompton* in his *Iurisdictions, fol. 154.* hath these words in effect. There be *Foresters* assigned by the King, which be *walkers* within a certeine space assigned them to looke vnto.

*Wainiaria mulieris*, is as much as *utlagatio viri*. Register original fol. 132. b. See *Waine*.



*Wapentake (Wapentakium)* is all one with that, which we call a Hundred, as appeareth by *Bracton, lib. 3. tract. 2. ca. pri. nu. pri. in fine.* *Conuocentur* (saith he) *postmodum seruientes & Balini Hundredorum, & per ordinem irrotulentur Hundredarii, siue wapentakia, & nomina seruientium, quorum quilibet affidabit, quod de quolibet Hundredo eliget quatuor milites, qui statim veniant coram Iusticiariis ad faciendum preceptum Domini Regis, & qui statim intrabunt, quod eligent duodecim milites, vel liberos & legales homines, si milites non inueniantur, &c.* *M. Lambard* in his explication of Saxon words, verbo *Centuria*, is of the same minde: and farther saith, that this word is especially vsed at this day in the countries be north the riuer *Trent*. And in the lawes of King *Edward* set forth by him nu. 33. it is most plaine in these words. *Et quod Angli vocant Hundredum, supradicti comitatus vocant wapentakium.* But there he nameth some shires of this side *Trent*, as *Warwick shire, Leicester shire, and Northampton-shire*. In the words there folowing, there is a reason giuen of this appellation in these words. *Et non sine causa: Cum quis enim accipiebat prefecturam wapentakii, die statuto in loco, ubi consueuerant congregari, omnes maiores contra eum conueniebant, & descendente de equo*

*suo, omnes assurgebant ei. Ipse vero, erecta lancea sua, ab omnibus secundum morem foedus accipiebat. Omnes enim quotquot venissent, cum lanceis suis ipsius hastam tangebant, & ita confirmabant per contractum armorum, pace palam concessa. Anglicè enim arma vocantur (wapun) & saccare confirmare: quasi armorum confirmatio. Vel ut magis expresse secundum linguam anglicanam dicamus, wapentak armorum tactus est (wapun) enim arma sonant (tac) tactus est. Quomobrem poterit cognosci, quod hac de causa, totu ille conventus dicitur (wapentac) eo quod per tactum armorum suorum ad inuicem confederati sunt.* Thus farre the booke goeth word for word. With whom *Eleta* agreeth, sauing that *Eleta* saith, that this word is vsed in all countiees be north *Wathunstreete, li. 2. ca. 61. §. vniuersimode.* Take *Sir Tho: Smithes* opinion also: whose words in his second booke de *Rep: Anglo: ca. 16.* be these: *Wapentak*, I suppose, came of the *Danes*, or peradventure of the *Saxons*. For that so many townes came by there order then into one place, where was taken a mouster of there armour and weapons: in which place, from them that could not finde sufficient pledges for their good abearing, their weapons were taken away. The statute anno 3. *Henrici 5. ca. 2. & anno 9. H. 6.*

cap. 10. & anno 15. H. 6. ca. 7. T. maketh mention of *Staincliffe Wapentake*, and *Frendles Wapentake*, in *Crauen* in the County of *Yorke*. See *Roger Howeden*, parte poster: *suorum annalium*, fo. 346.b.

*Wards and Lineries* (*wards & liberatura*) is a Court first erected in King *Henry* the eighth his time, and afterward augmented by him with the office of *Lineries*, and therefore called by him (as now it is) the Court of *wards* and *Lineries*. The chiefe of this Court is called the master of the Court, &c. To whom are ioyned the *Surneior*, *Atturney*, and *Receiver* of the said Court, as his Assistants: then as Ministers the *Register*, two inferiour *Atturneys* or Clerks, and a Messenger.

*Ward* (*Custodia*) is the *German* word, as (*Garde*) is the *French*. Both these be vsed among our common lawyers: the one by those that write in *French*, the other by those that write in *English*. Wherefore for your sarder vnderstanding, See *Gard* and *Gardein*. Yet is *Gard* sometime vsed in the *English* bookes also: as yeomen of the *Gard*. And also the keeper of one in his minority, is not called a *warden* but a *Gardein* or *Gardian*. *Ward* hath diuers applications, as a *Ward* in *London*, latined (*warda*) which is a portion of the City committed to the especiall

charge of some one of the 24. *Aldermen* of the city, in such sort as euery one knoweth his certaine ward assigned vnto him, and hath dwelling within the same compas some one graue Citizen for the good gouernment thereof: who is in that respect a Deputie to the said *Alderman*, and commonly called the *Aldermans Deputie*. Of these there be 25. within the citie, and one without, beside other liberties and the suburbes. *Stowes Suruey of London*. Also a *Forest* is diuided into *wards*: *Manwood*, parte prim. of his *Forest lawes*. pag. 97. Lastly, a prison is otherwise called a *Ward*. And the heire of the Kings tenent, houlding by knights seruice, or *in capite*, or of any common person by Knights seruice, is called *Ward*, during his nonage. See anno 32. H. 8. cap. 46.

*Warden* (*Gardianus*) signifieth al one thing with the *French* (*Gardien*.) And therefore of this see more in *Gardien*. But it is the more vsuall word of all that writ in *English*, for him that hath the keeping or charge of any person or thing by office: as *Wardens* of *Fellowships* in *London*. anno 14. H. 8. cap. 2. *Warden courts*, anno 31. H. 6. ca. 3. *Warden of the Marches*, anno 4 H. 7. cap. 8. *Wardens and Corn-*



munaltie of the lanes contributorie to Rochester bridge. anno 18. Eliz. cap. 7. Wardens of peace. anno 2. Ed. 3. cap. 3. Statute Northampton. Warden of the West Marches. *Camd. Brit. pag. 606.* Warden of the Forest. *Manwood, parte prim. pag. 111. & 112.* Warden of the Aulnage. anno 18. H. 6. cap. 16. Chiefe Warden of the Forest. *Manwood parte prim. pag. 42. & 43.* Warden of the Kings wardrobe. anno 5. H. 3. *statut. quinto.* Wardens of the tables of the Kings Exchange, anno 9. Ed. 3. *stat. 2. cap. 7. & anno 9. H. 5. stat. 2. c. 4.* Warden of the rolles of the Chauncerie. anno 1. Ed. 4. *cap. 1. & cap. 5.* Warden or Clerke of the hamper of the Chauncerie. *ibid.* Warden of the kings writs, and Records of his common bench, *ibid.* Warden of the Kings armour in the tower. anno 1. Ed. 4. *cap. 1.*

*Wardmore*, is a court kept in every ward in London. anno 32. H. 8. *cap. 17.* ordinarily called among them, the *Wardmore Court.*

*Ward peny*, is money to be contributed toward watch and ward.

*Warantie*, (*warantia*) commeth of the French (*garantie*) or (*garant*) i. *vindex litis*: which is a word of great antiquitie with the French men, being brought

first thither by the *Franco-galli*. And thence do they make a Latinish verbe, viz. (*guarentare*) vel, *ut est in aliis libris, guarentisare. i. causam alterius suscipere, se defensorem profiteri.* The Feudists also vse this word (*guarentur*) quo significatur is, qui Latinis author dicitur, & euictionem prestat. *lib. 2. Feud. titulo 34. §. 2.* The Ciuilians haue a stipulation (*habere licere*) whereby is signified a power of perpetuall & quiet possession to be giuen: *l. 11. § final. x. de action. empt. & vend.* But this reacheth not so farre as our warrantie. For the seller hereby is bound but to a kind of diligence and care to maintaine the buyer in his possession. For if he be euicted, the buyer is not tyed to recōpence. *Doctores in l. stipulatio ista, Habere licere. x. de verb. obliga.* Warrantie signifieth in our common lawe, a promise made in a deed by one man vnto another for himselfe and his heires, to secure him and his heires against all men, for the enioying of any thing agreed of betweene them. And he that maketh this warrantie, is called *Warrantius* by *Bracton, lib. 2. cap. 10. & 37.* The Romaines called him *Au-torem*, as *Hotoman* testifieth in his Commentarie vpon *Tullies* oration *pro Anulo Caccinna. verbo, Celsennius* author feud: *author*

may reade more at large. And that which we terme *vocationem warranti*, the Ciuilians call *authoris laudationem vel nominationem*. Eimer *pract. cap. 48*. This warranty passeth from the seller to the buyer, from the feoffer to the feoffee, from him that releaseth, to him that is released of an action reall, and such like. And for the forme it passeth in a clause toward the end of a deed in these wordes: *Et ego verò prefatus I. & heredes mei predictas decem acras terre cum pertinentiis suis prefato H. heredibus, & assignatis suis contra omnes gentes warrantizabimus in perpetuum per presentes.* *West. parte prim. symbol. lib. 2. titulo Feofments. sect. 281. & 288.* So a release may be with a clause of warrantie. *Idem, eodem. titulo Releases. sect. 510.*

There is also a warrant of Atturney, whereby a man appointeth another to do some thing in his name, and warranteth his action, *West. eod. sect. 181.* And these warrants of Atturney seeme to differ from leters of Atturney, because that, whereas leters passe ordinarily vnder the hand and seale of him, that maketh an Atturney by them, before any credible witnesses: warrants of Atturney be acknowledged before such persons, by such means and in such maner, as *Fines. West. parte 2. symbol. titulo Recoveries.*

*sect. prim. F. See Atturney.*

But these warranties in passing land from one to another, be of greatest consequent, & of more intricate vnderstanding. And therefore of these, diuers haue written at large: as *Glanville lib. 3. per totum. Bracton lib. 5. tract. 4. per totum. Britton. cap. 105.* Littleton in the last chapter of his tenures: the forme and effect whereof Bracton in his second booke *cap. 16. num. 10.* declareth thus: *Et ego & heredes mei warrantizabimus tali & heredibus suis tantum, vel tali & heredibus & assignatis, & heredibus assignatorum, vel assignatis assignatorum, & eorum heredibus, & acquietabimus, & defendemus eis totam terram illam cum pertinentiis (secundum quod predictum est) contra omnes gentes in perpetuum, per predictum seruitium. Per hoc autem quod dicit (Ego & heredes mei) obligat se & heredes suos ad warrantiam, propinquos, & remotos, presentes & futuros ei succedentes in infinitum. Per hoc autem quod dicit (warrantizabimus) suscipit in se obligationem ad defendendum suum Tenementum in possessione rei data, & assignatos suos & eorum heredes, & omnes alios, secundum quod supradictum est, si forte tenementum datum peccatur ab antiquo in Dominico. Per hoc autem quod dicit (acquietabimus) obligat se & heredes suos ad*



*acquiescendum, si quis plus petierit  
servitii, vel aliud servitium, quam  
in charta donationis continetur: per  
hoc autem quod dicit (Defendendum)  
obligat se & heredes suos ad De-  
fendendum, si quis velit servitium  
ponere rei data contra formam sue  
donationis, &c.* But the new ex-  
pounder of law terms saith, that  
this warranty beginneth two  
waies: one by deede of law: as  
if one and his auncesters, haue  
held land of another and his aun-  
cesters, time out of minde by ho-  
mage (which is called *Hommage  
auncestrell*) for in this case, the ho-  
mage continually performed by  
the tenent is sufficient to bind the  
Lord to warrant his estate. The  
other is by deede of the party,  
which by deede or fine tyeth  
himselfe to warrant the land or  
tenement to the tenent. And *Sir  
Ed: Cooke* in the fourth booke of  
his reports, mentioneth the same  
distinction. *Nokes case, fo. 81. a.*  
calling the one a warranty in  
law, the other an expresse war-  
ranty. Ciuilians would call these  
*species tacitam & expressam.*

*Warranty* (as the said author  
of the terms of law saith, is in  
two maners: warranty lineall,  
and warranty collaterall. But  
(*Littleton* saith *ubi supra*) it is  
threefold: warranty lineall, war-  
ranty collaterall, and warranty  
that beginneth by disseisin. War-  
ranty by disseisin what it is, is

partly declared in *Sir Ed. Cooke's*  
reports, li. 3. *Fermors case, fol. 78.*  
a. Whether of them deuideth  
more aptly, let the learned iudge.  
For my part, I thinke that line-  
all and collaterall be no essenti-  
all differences of warranty, as it  
is originally considered in the  
first warranter. For he bindeth  
himselfe and his heires in gene-  
rall. And such be bound, be they  
lineall or collaterall vnto him.  
Therefore this diuision riseth  
rather from the euent of the ori-  
ginall warranty: *videlicet*, because  
it so falleth out, that the tenent,  
to whom the warranty was  
made, or his heires, when he or  
they be called into question for  
the land warranted formerly by  
the first feoffour, is driuen by the  
meanes of the first warranters  
death, to cal or vouch him to wa-  
ranty that is his heire, and now  
presently liuing, be he descen-  
ding or collaterall, as it falleth  
out. For example. *A.* infeoffeth  
*B.* in twenty acres land, with  
clause of warranty against all  
men. So long as *A.* himselfe li-  
ueth, he is liable to this coue-  
nant, and none els: after his dis-  
cease his heire is subiect vnto it,  
be he his sonne, brother, vncle,  
or what els. And whether of  
these, or neither of these it will  
be, none knoweth vntill he be  
dead. Wherefore I conclude  
that this distinction of lineall or  
collate-

collaterall hath no vse originally in this contract. For (as the author of the terms of law saith) the burden of this warranty, after the death of the first warrantor, falleth vpon him, vpon whom the land should haue descended, if the warranty had not bene made. And that is the next of blood to the warrantor, be he in the descending or collaterall line. And therefore I resolve that this distinction groweth from an euent, after the death of him that couenanteth to warrant. But to make this plaine, I finde warranty to be vsed equiuocally: signifying in one sort, the contract, or covenant of warranty first made, as appeareth by *Bracton* in the place formerly noted: and in another sort the very effect and performance of this contract, either by the warrantor or his heires, when he or they be by the tenent thereunto vouched, or called: As also I shew out of *Bracton*, lib. 5. tract. 4. ca. pri. m. 2. in these words. *Imprimis videndum est quid sit warrantizatio. Et sciendum quod warrantizare, nihil aliud est, quam defendere & acquietare tenentem, qui warrantum vocabit in seifina sua, &c.* With whom agreeth *Fleta* saying that *warrantizare nihil aliud est, quam possidentem defendere*, li. 5. ca. 15. §. 1. & lib. 6. ca. 23. *quod lege per totum*. And the for-

mer diuision of lineall and collaterall warranty, rather belongeth to warranty in this second signification then the former.

And that this way it is imperfect or at the least obscure, I thinke it not hard to declare. First to shew this I note out of *Bracton*, who may be called to warrantie. And he lib. 5. tractat. 4. cap. pri. m. 5. saith thus: *Videndum est quis vocari possit ad warrantum, & sciendum, quod tam masculus quam femina, tam minor quam maior (dum tamen si minor vocetur, remaneat placitum de warrantia in suspensio vsq; ad etatem, nisi causa fuerit ita fauorabilis, quod aetas expectari non debeat, sicut ex causa Dotis) Item non solum vocandus est ad warrantum ille qui dedit, vel vendidit: verum etiam vocandi sunt eorum heredes descendentes in infinitum propter verba in Chartis contenta, (Ego & heredes mei warrantizabimus tali & heredibus suis, &c.) Et in quo casu tenentur heredes warrantizare, siue sint propinqui, siue remoti, remotiores, vel remotissimi. Et quod de heredibus dicitur, idem dici poterit de assignatis, & de illis, qui sunt loco illorum heredum, sicut sunt capitales Domini qui tenentibus suis quasi succedunt, vel propter aliquem defectum, vel propter aliquod delictum, sicut de eschaetis Dominorum: By which words we perceiue that*



that the burden of this warrantie is not tyed to heires only, be they in the descending or collaterall line, but that vnder this word (*Heredes*) are comprised all such, as the first warranters lands afterward come vnto either by discent, or otherwise *ex causa lucrativa*. So that if a man haue 20. children, yet if he will, and may giue his land to a straüger, leauing his childrē no land: that straüger in this case is his assigne, & is contained vnder this word, heire. So if he commit felonie after such warrantie covenanted, and forfeit his lands to his Lord by escheate: the Lord is *quasi heres* in this case, and lyable to the warrantie formerly passed. And in these two later cases, warranty in the secōd signification seemeth to be neither lineall, nor collaterall: at the least as *Littleton*, and the other author haue defined, or by examples expressed them.

But, yet let vs define these two species, as they be. wherefore lineall warranty is that, which he is called vnto by the tenent, vpon whome the land warranted had descended, if the warranty had not bene couenanted. For example; A selleth to B. 20. acres land with clause of warranty, and afterward dieth leauing issue. C. soone after B.

is impleaded for this land by D. and voucheth C. This is called a lineall warranty: because but for it the land had descended from A. to C.

*Warranty collaterall*, is that wherevnto he is called by the tenent vpon the couenant of him, from whome the land could not descend to the party called. For example; B. the sonne purchaseth tenements in fee, whereof A. his father disseiseth him, and selleth them to C. with a clause of warranty. A being deade, C. is impleaded for the tenements, and calleth B. to warranty. This warranty wherevnto B. is caled, is collaterall: bycause the tenements, if the warranty had not bene couenanted by A. could not haue descended from him to his father A. for they were his owne by Purchase. Many other exāples there be of this in *Littleton*. And this very case he maketh his example of warranty by disseisin, as also of warranty collaterall. which plainly argueth, that warranty by disseisin, and warranty collaterall, are not distinct members of warranty, but may be confounded: though one warranty may cary both names in diuers respects. For there is some warranty collaterall that beginneth not be disseisin. For

example. A. tenent in taile, alienateth to B. in fee, and dieth leauing issue. C. Afterward. D. brother to A. and vncle to C. releaseth to B. with warranty, and dying leaueth. C. his heire being next of blood vnto him. This warranty is collaterall, because it descendeth vpon. C. from his vncle. D. and yet it beginneth not by disseisin of his said vncle.

*Warranty*, hath a double effect: one to barre him vpon whom it descendeth from the first warrantor as his next of blood, from claiming the land warranted: and another to make it good to the tenant, if by him he be vouched thereunto, or els to giue him as much other land by exchange. But as the former of these effects taketh place with all heires, except those to whome the land warranted was intailed, and that reape no equivalent benefit by the first warrantor. *anno 6. Ed. pri. ca. 3.* soe the latter prejudiceth none that receiueth not sufficient land from the first warrantor to make it good. *Bracton, lib. 5. tractat. 4. ca. 8. nu. pri. & cap. 13. nu. 2.* In the custumarie of Norm. *ca. 5.* you haue *veuchement de garant*, which the Interpreter translateth, *Vocamentum Garanti.* a voucher or calling of

the warrantor into the court to make good his sale or gift.

*Warrantia diei*, is a writ lying in case, where a man hauing a day assigned personally to appeare in court to any action wherein he is siewed, is in the meane time by commaundement employed in the Kings seruice, so that he cannot come at the day assigned. This writ is directed to the Iustices to this end, that they neither take nor record him in defaulte for that day. *Register originall, fol. 18.* Of this you may read more in *Fitzh. nat. br. fol. 17.* and see *Glauile, lib. pri. ca. 8.*

*Warrantia charta*, is a writ that lieth properly for him who is infeoffed in land or tenements with clause of warranty, and is impleaded in an Assise or writ of Entrie, wherein he cannot vouche or call to warranty: for in this case his remedy is, to take out this writ against the seoffour or his heire. *Register orig. fol. 157. Fitzh. nat. br. fol. 134.* Of this you may likewise reade *Fleta, lib. 6. ca. 35.* and *West parte 2. sim. b. titule Fines. sect. 156.*

*Warrantia custodie*, is a writ Iudiciall, that lyeth for him that is challenged to be ward vnto another, in respect of land said to be houlden in Knights seruice, which when it was bought



by the auncesters of the ward, was warranted to be free from such thraldome. And it lieth against the warranter and his heires, Register Iudiciall. fol. 36.

*Warren of Atturney.* See Letter of Atturney, and Warranty.

*Wardvire significat quietantiam misericordie in casu quo non inuenit quis hominem ad wardum faciendam in castra, vel alibi. Fleta lib. 1. cap. 47.*

*Warren* (*Warrenna*, alais *varrenna*) cometh of the French (*Garrenne*. i. *vivarium*, vel *locus in quo vel aves, vel pisces, vel fera continentur, que ad victum dumtaxat pertinent*) Calapine out of *Aulus Gellius. lib. 2. Noct. Attica: cap. 20.* A warren (as we vse it) is a prescription or graunte from the king to a man of hauing fefants, partridges, connies, and hares, within certaine of his lands, *Cromptons Iurisdic. fol. 148.* where he saith, that none can haue warren, but onely the King, no more then Forest or chase. Because it is a speciall priuiledge belonging to the King alone. And a little after he hath words to this effect: The king may graunt warren to me in mine owne lands, for fefants and partridges onely. And by this graunt no man may there chase them without my licence. And so of Hares, but not of Connies. For their property is to destroy the

frutes of the earth, as to eat corne, and pille the barke of apple trees. *M. Mamwood* in his first part of Forest lawes, saith thus of it: A warren is a fraunchise or priuiledged place of pleasure, onely for those beasts and foules that are beasts and foules of warren, *tantum campestres & non syluestres. viz.* For such beasts and foules as are altogether belonging to the feilds, and not vnto the woods: and for none other beasts or foules. There are but two beasts of warren, that is to say Hares and Connies: and there are also but two foules of warren, *viz.* Fefants and partridges. And none other wild beasts or birds haue any firme peace, priuiledge, or protection, within the warren. If any person be found to be an offender in any such free warren, he is to be punished for the same by the course of the common law, and by the statute. *anno 21. Ed. 3.* called the statute *de malefactoribus in parcis & chaceis &c.* For the most parte there are noe officers in a warren, but the master of the game, or the keeper. A free warren is some time inclosed, and also the same some time doth lie open. for there is no necessity of inclosing the same, as there is of a park, for if a park be suffered to lie open,

kings hands. Thus farre *M. Manwood*.

*Warscot*, is the contribution, that was wont to be made towards armour in the Saxons time. In *Canutus* his charter of the Forest set out by *M. Manwood* in the first part of his Forest lawes, *num. 9.* you haue these wordes: *Sunt omnes tam primarij quam mediocres, & minuti, immunes, liberi & quieti ab omnibus provincialibus summonitionibus, & popularibus placitis, quæ Hundred laghe Angli dicunt, & ab omnibus armorum oneribus, quod Warscot Angli dicunt, & forinsecis querelis.*

*Vvarwit*, alias, *Vwardwit*, is to be quite of giuing money for keeping of watches. New exposition of lawe termes.

*VVaste* (*vastum*) commeth of the French (*gaster. i. populari*). It signifieth diuersly in our common lawe, first, a spoile made, either in houses, woods, gardens, orchards, &c. by the tenant for terme of life, or for terme of anothers life, or of yeares, to the preiudice of the heire, or of him in the Reuerſion or Remainder. *Kitchin fol. 168. &c. vsque 172.* vpon this committed the writ of waste is brought for the recouerie of the things, whereupon the waste is made. See *Vasto*. *VVaste* may be also made of tenants or bond-

men belonging or regardant to the maner. *Regist. orig. fol. 72. a. & 73. a.* See the new booke of Entries. *verbo VVaste*. A waste of the Forest (as *M. Manwood* saith, *parte prim.* of his Forest lawes, *pag. 172.*) is most properly where any man doth cut downe his owne woods within the Forest, without licence of the king, or of the Lord chiefe Iustice in Eyre of the Forest. But it is also, where a man doth plow vp his owne medow or pasture, and conuerterh it vnto tillage. And of this you may reade him at large, in his second part, *cap. 8. num. 4. & 5.* *VVaste* in the second signification is taken for those parts of the Lords Demelns, that be not in any one mans occupation, but lye common for bounds or passages of the Lord and tenant from one place to another, and sometimes for all the Kings subiects. *VV*hich seemeth to be called waste, because the Lord cannot make such profit of it, as he doth of other of his land, by reason of that vse which others haue of it in passing to and fro. Vpon this none may build or feed, or cut downe trees, without the Lords licence. *VVaste* hath a third signification, as yeare, day, and waste. *Annus, dies, & vastum* which is a punishment or forfeiture be-



longing to petit treason, or felonie: whereof you may reade *Stawms. pl. cer. lib. 3. cap. 30.* And see *Yeare, Day, and VVaste.*

*VVasters. anno 5. Ed. 3. cap. 14.* See *Roberds men.* See *Draw lat-ches.*

*VVastell breade, anno 51. H. 3.* *statute of bread, and statute of piloric.*

*VVater bayliffes,* seeme to bee officers in port townes for the searching of shippes, *anno 28. H. 6. cap. 5.*

*Watling street,* is one of the 4. waies, which the Romaines are said to haue made here in *England*, and called them *Consulares, Pretorias, Militares, Publicas.* *M. Camden* in his *Britannia*, perswadeth himselfe that there were more of this sort than 4. This streete is otherwise called *Werlamstreet*, (as the same author saith, and howsoeuer the Romains might make it and the rest, the names be from the Saxons. And *Roger Howeden* saith, it is so called, because the sonnes of *Welbe* made it, leading from the East sea to the West.

*Annal. part. prior. fol. 248. a.* This street leadeth from *Douer* to *London*, and so to *S. Albons*, and there onward directly toward the North-west through the land, as from *Donstable* to *Westchester. anno 39. El. cap. 2.* the second street is called *Ike-*

*nild street*, beginning *ab Icenis*, who were the people inhabiting *Northfolke, Southfolke, and Cambridge shire*, as *M. Camden* declareth, *pag. 345.* The third is called *Tosse*: the reason of the name he giueth, because he thinketh it was ditched of each side. The fourth is called *Ermin street*, *Germanico vocabulo, à Mercurio, quem sub nomine Irmunsull. i. Mercurii columna, Germani maiores nostri coluerunt.* Of these reade more in the said author, *pag. 43. & 44.* In the description of *England* going vnder Saxons name, *cap. 7.* I reade that *Belinus* a Briton king made these 4. wayes: whereof the first and greatest he calleth *Fosse*, stretching out of the South into the North, and beginning from the corner of *Cornwel*, and passing forth by *Denonshire, Somersetshire*, and so along by *Tetburie* vpon *Totesu*ould besides *Conentree* vnto *Lecester*, and thence, by the wide plaines to *Newarke* and to *Lincolne* where it endeth. The second he nameth *Watling street*, comming out of the South-east toward the Fosse, beginning at *Douer*, and passing through the middle of *Kent* ouer *Thames* beside *London* nere *Westminster*, and thence to *S. Albons*, by *Donstable, Stratford, Towceter, Wedon, Lilborn, Atheriston, Gilberts hill*, now called *Wreaken*, by *Se-*

uerne, Workecester, Stratton, and so  
foorth by the middle of *Wales*,  
vnto *Cardigan* and the Irish seas.  
The third he calleth *Erminage-*  
*street*, stretching out of the West  
North-west into the East South-  
east, from *S. Davids* in the west  
*Wales* vnto *Southampton*. The  
fourth he called *Rikenild street*,  
stretching foorth by *Worcester*, by  
*Wiccombe*, *Brinningham*, *Litch-*  
*field*, *Derby*, *Chesterfield*, and by  
*Yorke* foorth into *Tynmouth*. But  
he that listeth to reade at large  
of these wayes, let him haue re-  
course to the first volume of *Hol-*  
*insbeds Chronicle*, and the de-  
scription of *England* there, the  
19. chapter. Where this antiqui-  
tie is farre otherwise declared,  
then by the former writer. *Henry*  
of *Huntington* likewise in the  
first booke of his historie, not  
farre after the beginning men-  
tioneth these 4. streetes, terming  
them *calles Regia sublimatos au-*  
*thoritate, ne aliquis in eis inimicum*  
*inradere auderet, &c.*

*Waterbayliffes.* anno 28. H. 6.  
cap. 5. is an officer belonging  
to the citie of *London*, which  
hath the supervision and search  
of fish, that is brought to that  
citie, as also the gathering of  
the toll rising from that water.  
He is reckoned an *Esquier* by his  
office, as the *Sword-bearer*, the  
*Huntsman*, and the chiefe *Ser-*  
*geant* is. He also attendeth vpon

the *Lord Maior* for the time  
being, and hath the principall  
care of marshalling the guests at  
his table.

Way. See *Chimin*.

*Weise* (*wauium*) whence it hath  
his originall, I cannot certainly  
say. But I finde the nineteenth  
chapter of the Grand Customary  
of *Normandy* to be intituled (*De*  
*chose gaires*) and latined by the  
interpreter (*De rebus vauis*)  
which are there thus defined:  
*vaina sunt res, vel alia, que nullius*  
*proprietary attributa, sine possession-*  
*is reclamatione sunt inuenta, que*  
*vsq; ad diem & annum seruanda*  
*sunt. Et de iis modo, quo dictum est*  
*de veriscis*, that is (*weeks*) ea sua  
esse probantibus est restitutio facien-  
da, &c. This *weise* or things *wei-*  
*ued* haue the very same significa-  
tion in our common law, and be  
nought but things forsaken. The  
*Ciuitians* call it (*Derelictum*) or  
(*Quod est pro derelicto*) *Bracton* in  
the twelue chapter of his first  
booke nu. 10. reckoneth them  
inter res que sunt nullius ea que pro  
mainu habentur: sicut de aueris, v-  
bi non apparet Dominus, where he  
also saith, quod olim fuerunt inuen-  
toris de iure naturali, & iam effici-  
untur principis de iure Gentium.  
That this is a *Regality*, and be-  
longing to the King, except it  
be challenged by the owner  
within a yeare and a day, it  
appeareth by *Britton* in his



uenthrene chapter. Now the Kings in their times haue graunted this and such like prerogatiues vnto diuers subiects with their fees. who there likewise saith, that weifes, things lost, and estrayes, must by the Lord of the fraunchise where they are found, be caused to be cried and published in markets and churches nere about, or els that the yeare and day doth not runne to the prejudice of him that hath lost them. See *Waine. M. Skene de verborum signifi. verb. waife*, saith, that *waife est pecus, vel animal aberrans*, which wanders and wauers without a knowne master, and being found by any man within his owne bounds, must be by him proclaimed vpon diuers, and sundry market daies, at the parish church, and within the shyreeuedome. Otherwise the detainer may be accused of theft. And it is lawfull for the owner to challenge the beast within a yeare and day. Whereby it appeareth, that in Scotland that is called a weife which we heere call a stray or estray.

*Weald of Kent*, is the wooddie part of the Countrie. *Camden Britannia*, pag. 247. *M. Verstegan* in his restitution of decayed intelligence saith, that *Wald*, *Weald*, and *Would* differing in

vowell, signifie one thing, to wit a Forest. See the rest *lucra. W.*

*Wedding (Nuptia)* commeth of the German (*wed*). i. *pignus*. and wedde in Scotland signifieth so much at this day. *Skene de verborum signifi. verbo Vadum*.

*Weigh (waga)* is a certaine waight of cheefe or wooll, containing 256. pounds of *avojr de poyce*. See *Clave*.

*Weights (Pondera)* what they be, it is well knowne. There be 2. sorts of them in vse with vs. The one called Troy weight, which containeth 12. ounces in the pound, and no more: by the which, pearl, pretious stones, electuaries, & medicinal things, gould, siluer, and bread be waied: The other is called *Auer de pois*, which containeth 16. ounces in the pound. By this all other things are waied, that passe betweene man and man by weight, sauing onely those about named. why the one should be called Troy weight, I haue not learned. though I reade it termed *libram & unciam Troianam*: as if it came from Troy. But *Georg. Agricola* in his learned tractate *de ponderibus & mensuris*. pa. 339. termeth the pound of 12. ownces *libram medicam*, and the other of 16. ownces *libram ciuilem*. saying thus of them both: *Medica & ciuile libra, numero non gra-*

*gravitate unciarum differunt.* The second seemeth soe to be termed by reason of the more full weight. for (*Avoir de pois*) in French, is as much to say, as to haue full weight. But by these words (*Avoir de pois*) are some time signified such merchandies as are bought and sould by this kinde of weights. the first statute of *Yorke* anno 9. Ed. 3. in *proxim.* & anno 27. Ed. 3. stat. 2. ca. 10. & ann. 24 H. 8. ca. 13. Of weights in Scotland. See *Skene de verb. signif. verbo Serplathe.* All our weights and measures haue their first composition from the peny sterling which ought to weigh 32. wheat corns of a middle sort, twenty of which pence make an ownc and twelue such ownces a pound or twenty shillings, but 15. ownces make the Merchants pound. *Fleta, li. 2. ca. 12.* It is not vnlke that this merchants pound, though an ounce lesse, should be all one in signification with the pound of *avoir de pois*: and the other pound, called by *Flata troie weight*, plainly appeareth to be all one with that which we now call troie weight. And I finde not Troie weight mentioned by any other that euer I read vpon this subiect, but onely our owne contry men. See *Tronage.*

*Weights of Auncell, anno 14. Ed. 3. stat. pri. c. 12.* See *Auncell weight.*

*Were, aliàs werre* significth as much as (*Æstimatio capitis, aut pretiū hominis.* *M. Lam. exp.* of Saxō words, verbo: *Æstimatio.* That is to say, so much as one paid for killing of a man. Whereby he gathereth that slaughters, and such other great offences, were more rarely committed in auncient times, then now: when as for the multitude of offenders, death is most iustly inflicted for those crimes, that then were redressed by pecuniary mulcts. Of this see *Roger Houeden, parte poster. suorum annalium, in Henrico 2. fo. 344.*

*Weregelt* theof. significat *latronem qui redimi potest. vera enim anglicè idem est in Saxonis lingua, vel pretium vite hominis appetitum. Fleta lib. 1. ca. 47.*

*West Saxon lage, aliàs West sexenlage.* See *Lawe.*

*Wharfe (wharfs)* is a broad plaine place neare to a Creeke or hibe of the water, to lay wares vpon, that be brought to or from the water to be transported to any other place. *New booke of Entries, fol. 3. col. 3.*

*Wharfinger,* is the keeper of a wharfe, anno 7. Ed. 6. ca. 7.

*White hart silver (Candidi Cervi argentum)* is a tribute or mulct paid into the Eschequer out of the Forest of white hart: which (as *M. Camden* reporteth in his



Frutan, pag. 150.) hath continued from Henry the third time, and was imposed by him vpon Thomas De-la-linde, for killing of a most beautifull hart, which himselfe before had purposely spared in hunting.

Widow (*vidua*) seemeth to come of the French (*vide*.i. *inanius, exinanius*) or the verb (*vider*.i. *inaniare*) *quasi priuata atq; orba marito*. Macrobius lib. pri. *saturum*. ca. 15. draweth it from the Heiruscan verb (*Iduare*.i. *diuidere*). Vnde *vidua quasi valde idua*.i. *valde diuisa*: aut *vidua*.i. *a viro diuisa*. The signification with vs is apparent. But there is one kinde of widow, called the widow of the King, or the Kings widow (*vidua Regis*) that requireth exposition. And shee is that widow, which after her husbands death being the Kings tenant in capite, is driuen to recouer her Dower by a writ *De dote assignanda*. Of whom you may read *Starnf: prerog. cap. 4*. The words of the statute of the prerog: made anno 17. Ed. 2. be these. *Item assignabit viduis post mortem virorum suorum, quide co tenuerunt in capite, dotem suam, qua eas contingit, &c: licet heredes fuerint plene etatis, si vidua voluerint*. Et *vidua ille ante assignationem dotis sue praedictae, siue heredes plene etatis fuerint, siue infra etatem, iurabunt, quod se non maritabunt sine*

*licentia Regis*. Tunc Rex capiet in manum suam nomine districtionis omnes terras, & tenementa, quae de eo tenentur in dotem, donec satisfecerint ad voluptatem suam: ita quod ipsa mulier nihil capiet de exitibus, &c. quia per huiusmodi districtiones huiusmodi mulieres, seu viri eorum finem facient Regi ad voluptatem suam. Et illa voluntas tempore Regis Henrici patris Regis Edwardi estimari consuevit ad valentiam praedictae dotis per unum annum ad plus, nisi ulteriorem gratiam habuerint. Mulieres, quae de Rege tenent in capite aliquam hereditatem, iurabunt similiter, cum scung, fuerint etatis, quod se non maritabunt sine licentia Regis. Et si fecerint, terra & tenementa ipsarum eodem modo capiantur in manum Domini Regis, quousq; satisfecerint ad voluntatem Regis. Of this see likewise the great charter cap. 7. whereby it appeareth that other common Lords haue the same power ouer their widowes, touching their consent, in their mariage, that the King hath. Of this you may read more in the writ *De dote assignanda*. Fitzh. nat. br. fo. 263. C. See also the statute anno 32. H. 8. cap. 46.

Windelesor. a Herald. See Herald.

Withernam (exetium Namium) Master Linberd thinketh to be compounded of (withern.

*pignoris captio*) marueiling much why it should so farre be depraued in the interpretation, as to be translated (*uestitum Namium.*) Reade him in the explication of Saxon wordes, *verbo, Pignorari.* The concord of the thing signified with the meaning of the Latine words, maketh some to thinke, that it is compounded of (*wehren. i. veto,*) and (*nyman,*) or *uenmen. i. capio.*) For *withernam* in our common lawe is the taking, or driuing a distresse to a hould, or out of the countie, so that the Shyreue cannot vpon the repleuin make deliuerance thereof to the partie distreined: In which case, the writ of *Withernam*, or *de uetito Namio* is directed to the Shyreue, for the taking of as many of his beasts that did thus vnlawfully distrein, or as much goods of his, into his keeping, till that he hath made deliuerance of the first distresse. Also if the beastes be in a fortlet or castell, the Shyreue may take with him the power of the countie, and beat downe the castell, as it appeareth by the Statute. *Westm. pri. cap. 20. Britton. cap. 27.* But *M. Lamberds* interpretation seemeth more consonant to the writ, the forme whereof is thus in part, (*Fitz. nat. br. fol. 73.*) *Tibi precipimus quod averia pra-*

*dicti B. in Balliua tua capias in withernam. &c.* and the Register *orig. fol. 82. & 83. & 79. a. & 80. a.* and in the Register *Indic. fol. 29 a. & 30. a.* Whereby it appeareth, that the Shyreue by these words is willed to take in compensation of the former taking, so many cattell, &c. But yet this may qualifie *M. Lamberds* maruelling, because they that translated this word into such Latine, seeme to haue bene deceiued by the propinquitie of the word, (*wehren*) both to the word (*withernam*) and also to the meaning. This error (if it be an error) hath a probable likelihood of descent from the *Normans*, as appeareth by the grand Customarie. *cap. 4.* where you haue wordes to this effect: *Deficientes (sc. Balliuos) facere iusticiari, & ea, de quibus indicium vel recordatio habet fieri in curia: debet (sc. Iusticiarius) retrahere vel recitare. Treugam dari debet facere, quod est asscuratio pacis observanda. Nampta iniuste capta per ius facere liberari, &c.* Here you may see (*nampta*) referred to the first taking or distresse, which is vnlawfull. *Sir Thomas Smith* in his *Repub. Anglor.* agreeth with *M. Lamberd* in these words: This (*withernam*) he (meaning *Littleton*, with whom *Bracton* also agreeth. *lib. 2. cap. 5. & lib. 3. tract. 2.*



cap. 36.) interpreteth *vetitum Namium*, in what language I know not. Whereas in truth it is in plaine Dutch, and in our old Saxon language (*withen nempt. i. alterum accipere, alterum rapere.*) a word that signifieth all one with that barbarous Latine word, (*Represalia*) when one taking of me a distresse, which in Latine is called (*pignus*) or any other thing, and carying it away out of the Iurisdiction, where I dwell, I take by order of him that hath iurisdiction, another of him againe, or of some other of that Iurisdiction: and do bring it into the iurisdiction, wherein I dwell: that by equall wrong I may come to haue equall right, &c. *Namatio animalium* in Scotland is vsed for the pounding of cattell, *Skene de verbor. signif. verbo, Aueria*: whom also reade, *verbo, Namare. Withernam* in *Bracton lib. 3. tract. 2. cap. 37.* and also in *Westm. 2. ca. 2.* seemeth to signifie an vnlawfull distresse, made by him that hath no right to distreine. *an. 13. Ed. prim. cap. 2.* See the newe booke of Entries. *verbo Withernam.*

Woad, (*glastum*) is an herbe brought from the parts of Tolouse in France, & from Spayne, much vsed and very necessary in the dying of wollen cloth. *an 7. H. 8. cap. 2.* we call it woad of the

Italian word (*gnado*) or the Germane word (*weidr.*)

Woodgeld, seemeth to be the gathering or cutting of wood within the Forest, or money payed for the same, to the vse of the Foresters. And the immunitie from this by the Kings graunt, is by *Crompton* called *Woodgeld. fol. 197.*

Woodmen, seeme to be those in the Forest, that haue their charge especially to looke to the Kings woods. *Manwood parte pri. of his Forest lawes pag. 193.* and *Cromptons Iurisd. fol. 146.*

Woodmore court, is the Attachment of the Forest. *Manwood parte pri. of his Forest lawes. pag. 95.* See Attachment.

Woodward (*Woodwardus*) is an officer of the Forest, whose function you may partly gather by his oath set downe in *Cromptons Iurisd. fol. 201.* which *M. Manwood* hath also in his first part of his Forest lawes pag. 50. to the same effect, but something more at large. *viz.* You shall truly execute the office of a woodward of B. woods within the Forest of W. so long as you shalbe woodward there: you shall not conceale any offence either in Vert or in Venison, that shalbe committed or done within your charge: but you shall truly present the same, without any fauour, affection or reward. And

if you doe see or know any malefactours, or doe finde any Deere killed or hurt, you shall forthwith doe the verderour vnderstand thereof. And you shall present the same at the next court of the Forest: be it *Swainmote*, or court of Attachments, so help you God. Woodwards may not walke with bow and shafts, but with Forest bills. *Mammood parte pri.* of his Forest lawes pag. 189. and more of him pag. 97.

*Wooldriuer*, anno 2. & 3. Ph. & Ma. ca. 13. be those that buy wool abroad in the country of the sheep masters, & carry it by horse backe to the clothiers or to market townes to sell it againe.

*Woolferthfod* (*Caput lupinum*) is the condition of those, which were outlawed in the Saxons time, for not yielding themselves to Iustice. For if they could be taken aliue, they must haue bene brought to the King: and if they in feare of apprehension did defend themselves they might be slaine, and their heads brought to the King. For they carried a woolues head, that is to say: their head was noe more to be accounted of, then a woolues head, being a beast so hurtfull vnto man. See the lawes of K. Edw: set out by M. Lamberd fol. 127. b. nu. 7. The very like whereof Bracton also saith lib. 3. tract.

2. ca. 11. See *velarie*. Roger Hoveden writeth it (*Wulueshed. parte poster, suorum annalium fol. 343. b.*) whom read of this matter because you shall there see what it was in those daies to violate the peace of the church.

*Woolstaple*, anno 51. H. 3. stat. 5. See *Staple*.

*Woollwinders*, be such as winde vp euery fleece of wooll that is to be packed and sould by weight, into a kinde of bundle after it is clenfed in such maner as it ought to be by statute. And to auoide such deceit as the owners were wont to vse by thrusting locks of refuse wooll and such other drossie to gaine weight they are sworne to performe that office truly betweene the owner and the merchant. See the statute, anno 8. H. 6. cap. 22. & anno 23. H. 8. ca. 17. & anno 18. Eliza. ca. 25.

*Would*. See *Weald*.

*Wranglands*, seeme to be misgrowne trees that will neuer prooue timber. *Kitchin fol. 169. b.*

*Wormseede* (*semen santonicum*) is medicinal seede browght forth of that plant which in latine is called (*Sementina*) in english, holy wormwood, whereof you may read in *Gerards herball* li. 2. ca. 435. This is a drugg to be garbled, anno 1. Iacob. cap. 19.



*Wreck* (*wreccum* vel *wreſtum* *maris*) is the loſſe of a ſhippe and the goods therein contained by tempeſt, or other miſchance at the ſea. The Ciuilians call it (*Naufragium*) This wreck being made, the goods that were in the ſhippe, being brought to land by the waues, belong to the king by his prerogatiue. And therevpon in many bookes of our common lawe the very goods, ſo brought to land are called wreck. And wreck is defined to be thoſe goods which are ſo brought to land. *Sir Ed. Coke vol. 6. relatio. f. 106. a.* & the ſtatute *anno 17. Ed. 2. ca. 11.* in theſe words. *Item Rex habebit wreccum maris, per totum Regnum, ballenas, & ſturgiones captas in mari vel alibi infra Regnum, exceptis quibusdam locis privilegiatis per Regem.* Whereby it appeareth that the King hath them, or ſuch as haue by graunt this libertie or priuiledge of him. And that this ſtatute doth but affirme the auncient lawe of the land, it appeareth by *Bracton, lib. 2. cap. 5. num. 7. hiis verbis: Sunt etiam alia res que pertinent ad coronam propter privilegium Regis, & ita communem non recipiunt libertatem, quin dari poſſint, & ad alium transferi. Quia ſi transferantur, tranſlatio nulli erit*

*damnoſa, niſi ipſi Regi ſine principi. Et ſi huiusmodi res alicui conceſſa fuerint, ſicut wreccum maris, &c.* The reaſon of this he toucheth ſhortly in his firſt booke. *cap. 12. num. 10.* where he reckoneth theſe goods (*iure naturali*) to be (*in bonis nullius*) *quia non apparet Dominus eorum, ſed iure Gentium fieri principis.* And ſee him alſo, *lib. 2. cap. 24. num. 1. & 2.* It is worth the asking to know what is a wreck, and what not in this ſtricter ſignification. And the author of the termes of lawe ſaith, that if any perſon of the ſhippe come to land, it is not a wreck, or the wreck is not ſuch, that the king ought to haue the goods. with whome agreeth *S. Ed. Coke vol. 6. f. 107. a.* No, if either Dogge or Catte eſcape alieue to the land: the goods are the owners ſtill, ſo he come within a yeare, and day to claime them. And for this the ſtatute is plaine *Westm. pri. ca. 4. anno 3. Edm. pri.* which doctrine *Fitzb.* in his *nat. br. fol. 112. E.* extendeth thus farre, that if any of the goods be caſt vpon the drie land by any in the ſhippe, it is no wreck ſubieſt to the prerogatiue, for by this ſome of the ſhippe are presumed to come to land, and ſtill to haue a cuſtodie of the goods.

Grand Customarie of Normandie. cap. 17. is called (*varech*) and latined (*veriscum*) where it appeareth that the like lawe to ours was in Normandie almost in all points. But some sorts of their pretious Merchandise doe by their lawe appertaine to the Duke by his prerogative, though a iust challenge of the goods be made within the yeare and day. The Emperours of Rome made no advantage of this pirifull event, as appeareth: *titulo De Naufragiis* 11. Cod. And it appeareth that Richard the first had some remorse of poore sea mens miseries in this case. For he *quietum clamavit wreck suis subditis*. Rog. Hoveden parte poster. *suorum annal. fol. 386.* Of this *M. Skene de verb. signif.* speaketh to this effect: *wreck* signifieth a power, liberty, and prerogative appertaining to the King, or to any person, to whome the same is graunted by him by feofment, or any other disposition, to take vp and gaine such goods as are shipbroken, or fall to him by escheate of the sea.

*Writ*, (*brene*) is that with our common lawyers (in *Sir Tho. Smiths* iudgement *lib. 2. de Repub. Anglorum. cap. 9.*) which the Civilians call (*Actionem, siue formulam*) But I am rather of his iudgement, that hath added the

marginall note vnto him, saying that (*Actio*) is the parties whole suite: and that (*Brene*) is the kings precept, whereby any thing is comaunded to be done touching the suite or action: as the defendant or tenant to be summoned, a distresse to be taken, a disseisin to be redressed, &c. And these writs are diuersly diuided, in diuers respects. Some in respect of their order, or maner of graunting, are termed originall, and some Iudiciall. Originall writs be those, that are sent out for the summoning of the Defendant in a personall, or Tenant in a reall action, or other like purpose, before the suite beginneth, or to begin the suite thereby. Those be iudiciall, that be sent out by order of the court, where the cause dependeth, vpon occasion growing after suite begunne. *old. nat. br. fol. 51.* And Iudiciall is thus by one signe knowne from the Originall, because the *Teste* beareth the name of the chiefe Iustice of that Court whence it cometh, where the Orig. beareth in the *Teste* the name of the Prince. Then according to the nature of the action, they be personall or reall: and reall be either touching the possession, called writs of *Entrie*, or the property, called writs of *right*.



*Fitzh. nat. br. sparsim per totum.* Some writs be at the suite of a party, some of office. *old. nat. br. fol. 147.* Some ordinary, some of priuiledge. A writ of priuiledge is that which a priuiledged person bringeth to the court, for his exemption, by reason of some priuiledge. See *Procedendo*. See the new booke of *Entrise. verbo. priuiledge.* See *Briefs*.

Writ of rebellion. See *Commission of rebellion*.

Writer of the talies (*Scriptor taliarum*) is an officer in the Exchequer being clerk to the auditour of the receipt, who writeth vpon the talies the whole letters of the tellers billes.

## Y

**Y**ard land (*Virgata terra*) is a quantitie of land called by this name of the Saxon (*Gyrð-lander*) (but not so certaine a quantity, as that it is all one in all places. For in some country it conteineth 20. acres: in some 24. in some 30. as *M. Lamb.* saith in his explication of Saxon words: *verbo virgata terra.* This yard land *Bracton* calleth (*virgata terra. lib. 2. cap. 20. & 27.*) but he expresseth no certainty what it conteineth.

Yere and day (*annus & dies*) is a time thought in construction of our common lawe fit in

many cases to determine a right in one, and to worke an vfluca-pion or prescription in another. As in a case of an elstray, if the owner (proclamations being made) challenge it not within that time, it is forfeit. So is the yere and day giuen in case of appeale, in case of descent after entry or claime; of no claime vpon a fine or writ of right at the common lawe: so of a villein remaining in auacient demeane, of the death of a man sore bruised or wounded: of protections; essoines in respect of the Kings service: of a wreck, and diuers other cases *Coke. vol. 6. fol. 107. b.* And that touching the death of a man seemeth an imitation of the ci-vile lawe. *Nam si mortifere fue-rit vulneratus & postea post lon-gum intervallum mortuus sit inde annum numerabimus secundum Ju-lianum. l. aut lex. x. ad legē Aquil.*

Yeare, day, and waste, (*annus dies, & vastum*) is a part of the Kings prerogative, whereby he challengeth the profits of their lands and tenements for a yere, and a day, that are attainted of petit treason or felonie, whosoever be Lord of the maner, whereunto the lands or tene-ments do belong, and not onely so, but in the end wasteth the tenement, destroyeth the hou-ses, rooteth vp the woods, gar-dens,

dens, pastures, and ploweth vp medowes, except the Lord of the fee agree with him for the redemption of such waste, afterward restoring it to the Lord of the fee. Whereof you may reade at large in *Statut. prerog. cap. 16. fol. 44. & seqq.*

*Yoman*, seemeth to be one word made by contraction of two Danish words (*yong men*) which I gather out of *Canutus Charter of the Forest* set out by *M. Manwood parte prim. fol. prim. num. 2.* in these words: *Sunt sub quolibet horum quatuor ex mediocribus hominibus, quos Angli (Legespend) nuncupant, Dani vero (yong men) vocant, locati, qui curam & onus tum viridis tum veneris suscipiant.* These *M. Camden* in his *Britan. pag. 105.* placeth next in order to Gentlemen, calling them (*Ingenuos*) whose opinion the statute affirmeth, *anno 16. R. 2. cap. 4.* whereunto adde the statute *anno 20. eiusdem Regis cap. 2.* *Sir Thomas Smith* in his *Repub. Anglor. lib. prim. cap. 23.* calleth him a *Yoman*, whom our lawes call *legalem hominem*: which (as he saith) is in English a *Free man borne*, that may dispend of his owne free land, in yerely reueneue, to the summe of forty shillings sterling. Of these he writeth a good large discourse, touching their estate and vse in this common wealth. The

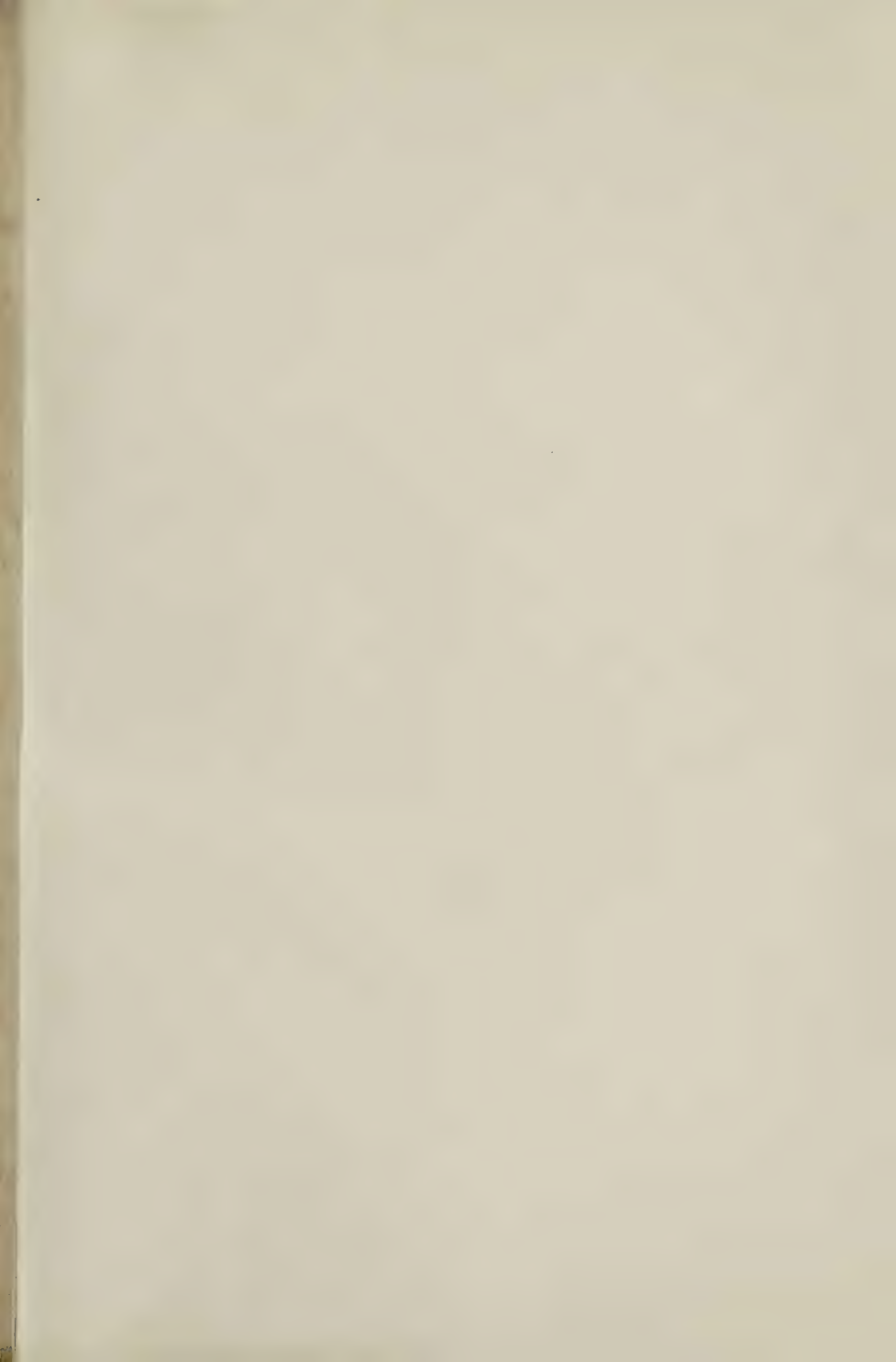
former etymologie of the name he liketh not, making question whether it come of the Dutch (*yonger*) yea or not, which in the Low countries signifieth a meane Gentleman, or a gay fellow. But he that hath added the marginall notes to that booke, seemeth to draw it from the Saxon (*German*) which signifieth a married man. *M. Verstegan* in his restitution of decayed intelligence, *cap. 10.* writeth, that (*Gemen*) among the auncient *Teutonicks*, and (*Gemein*) among the moderne, signifieth as much, as *Common*, and that the first letter *G.* is in this word, as in many others, turned into *Y.* and so written *Yemen*, and that therefore *Yemen*, or *Yeoman* signifieth so much as *Commoner*. *Yoman* signifieth an Officer in the Kings house, which is in the middle place betweene the Sergeant and the Groome: as *Yoman of the Chaundrie*, and *Yoman of the Scullerie. anno 33. H. 8. cap. 12.* *Yoman of the Crowne. anno 3. Ed. 4. cap. 5. & anno 22. eius. cap. 1. & anno 4. H. 7. cap. 7.* This word (*Yongmen*) is vsed for *Yomen* in the statute. *anno 33. H. 8. cap. 10.*

*Id. Ois. Deid.*

F I N I S.



$$\begin{array}{r} 16 \cdot 15 = 10 \\ \hline 177 \cdot 8 = 57 \end{array}$$



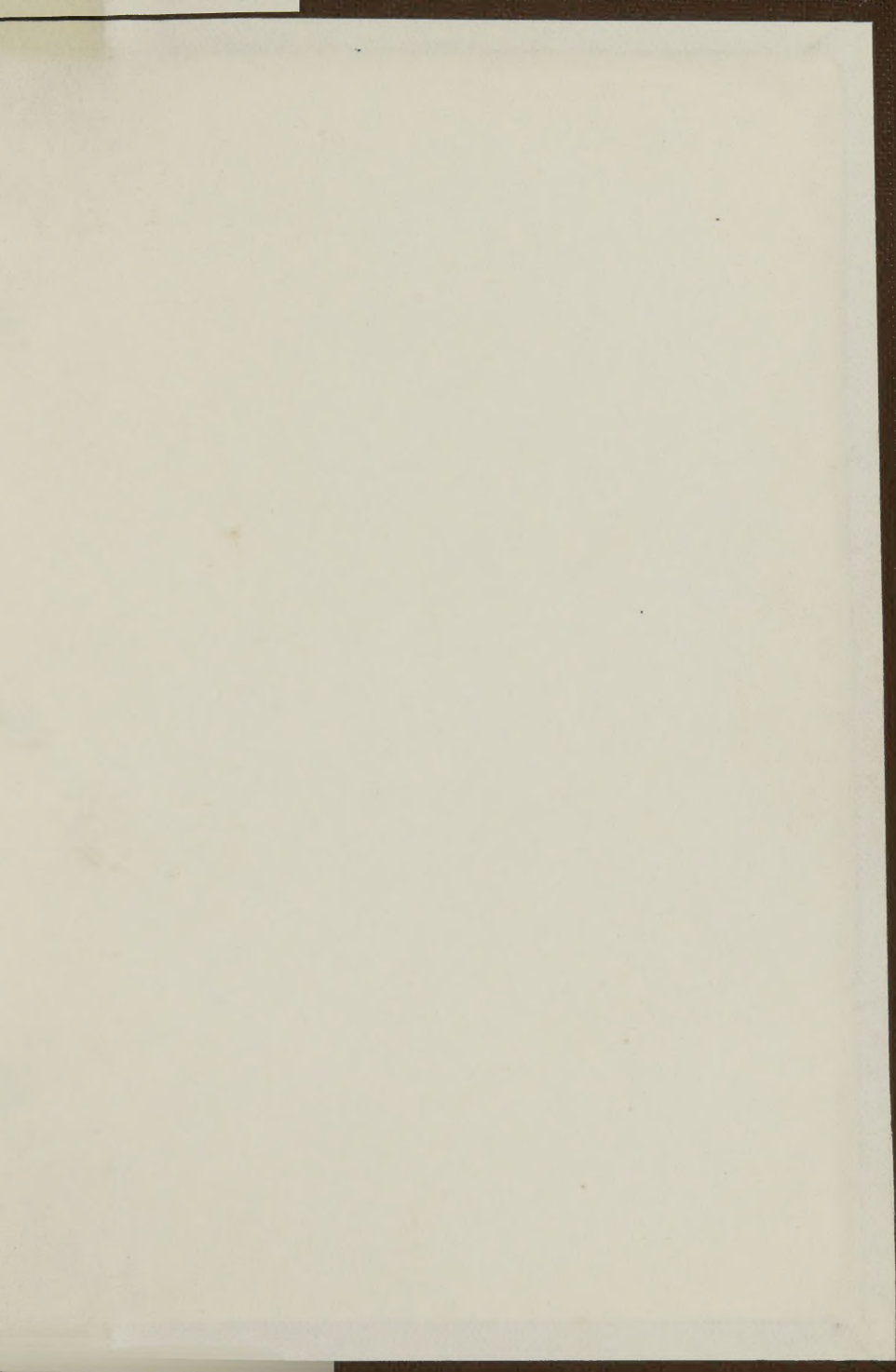




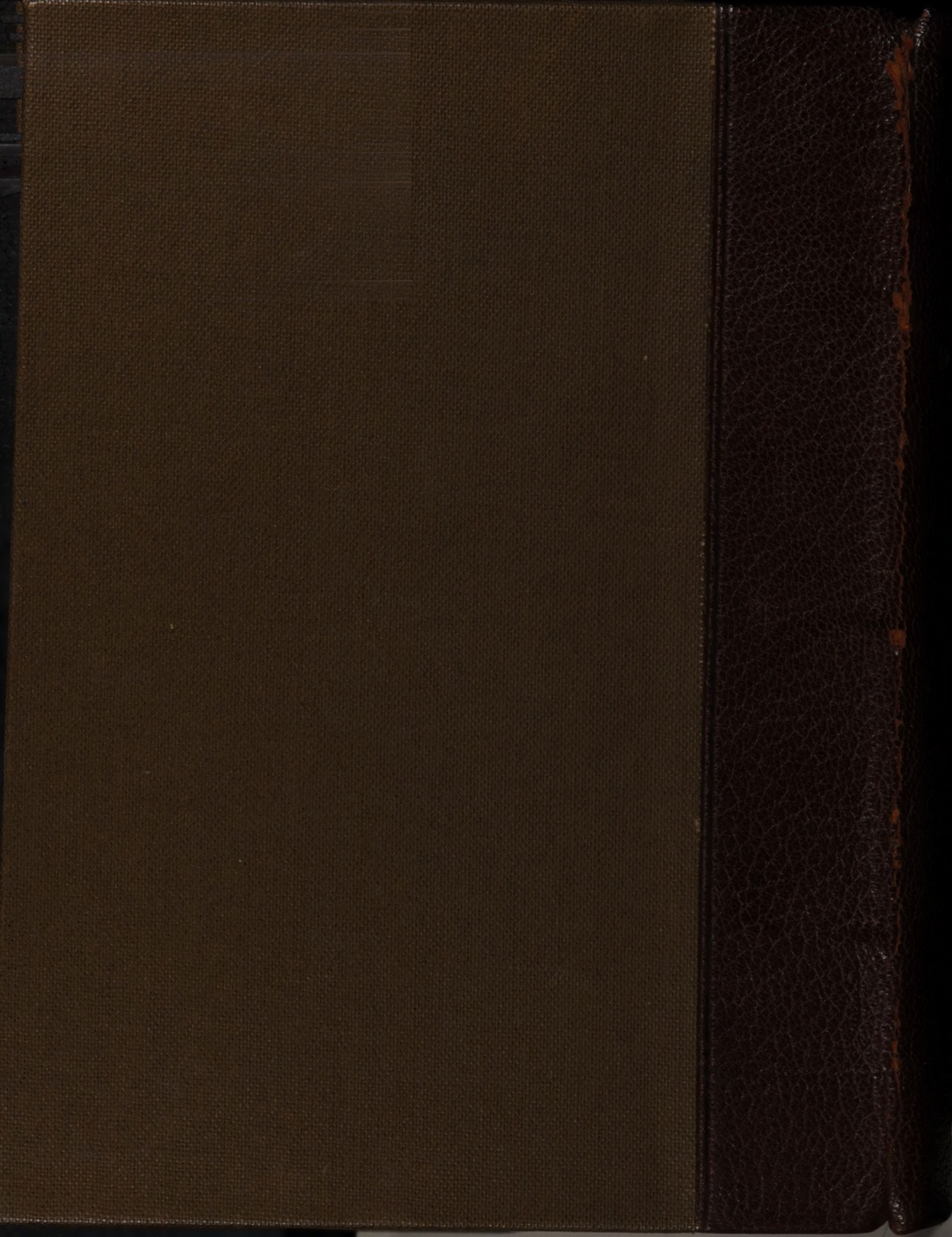














THE  
INTERPRETER

COWELL

1607



THE  
PRETER

VIII

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